

penalty for violation of Act; providing that suspended sentence law shall not be available to person convicted for violation of Act; providing that no prosecution for violation if previously acquitted or convicted of same violation under Federal Narcotic Act; providing that if any provision hereof is held to be invalid, other provisions will not be affected; providing for the rule of construction of this Act; repealing Chapter 35, page 45, Acts of the Regular Session of the Twenty-ninth Legislature, 1905, as amended by Chapter 150, page 277, Acts of the Regular Session of the Thirty-sixth Legislature, 1919, as amended by Chapter 61, page 156, Acts of the Second Called Session of the Thirty-sixth Legislature, 1919; Chapter 150, page 277, Acts of the Regular Session of the Thirty-sixth Legislature, 1919, Chapter 97, page 154, Acts of Regular Session, Forty-second Legislature, 1931, as amended by Chapter 204, page 609, Acts, Regular Session, Forty-third Legislature, 1933, repealing all laws or parts of laws inconsistent herewith; providing how this Act shall be cited; providing when this Act shall take effect, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

HERZIK, Chairman.

Austin, Texas, April 15, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 96, Authorizing the Enrolling Clerk to make certain corrections in House Bill No. 440.

Has carefully compared same and finds it correctly enrolled.

HERZIK, Chairman.

FIFTY-THIRD DAY

(Friday, April 16, 1937)

The House met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Calvert.

The roll of the House was called, and the following Members were present:

Mr. Speaker
Adkins
Alsup
Amos

Bates
Beckworth
Bell
Blankenship

Boethel
Bond
Boyer
Bradbury
Bradford
Broadfoot
Brown
Burton
Cagle
Callan
Cathey
Cauthorn
Celaya
Cleveland
Colquitt
Davis of Jasper
Davison of Fisher
Davisson
of Eastland
England
Farmer
Felty
Fielden
Fox
Fuchs
Gibson
Graves
Hamilton
Hankamer
Hanna
Harbin
Hardin
Harris of Dallas
Harris of Dickens
Hartzog
Hefflin
Herzik
Holland
Hoskins
Howard
Huddleston
Hull
Jackson
James
Johnson of Ellis
Johnson
of Tarrant
Jones of Angelina
Jones of Atascosa
Jones of Falls
Jones of Wise
Keefe
Kelt
Kenyon
Knetsch
Langdon
Lankford
Lanning
Leath

Leonard
Leyendecker
Little
London
Mann
Mauritz
Mays
McConnell
McCracken
McFarland
McKee
Metcalfe
Moffett
Monkhouse
Morris
Morse
Newton
Nicholson
Oliver
Patterson of Mills
Patterson
of Travis
Petsch
Pope
Powell
Prescott
Ragsdale
Reader
Reed of Bowie
Reed of Dallas
Riddle
Roark
Ross
Russell
Rutta
Settle
Sewell
Shell
Simpson
Skaggs
Smith of Hopkins
Smith
of Matagorda
Smith of Tarrant
Stinson
Stocks
Talbert
Tarwater
Tennant
Tennyson
Thornberry
Thornton
Vale
Waggoner
Walker
Weldon
Westbrook
Winfree
Wood

Absent—Excused

Alexander
Baker
Bridgers
Carssow

Davis of Haskell
Dean
Deglandon
Derden

Dickison	Lucas
Dollins	McDonald
Harper	McKinney
Harrell	Palmer
Harris of Archer	Quinn
Hyder	Rhodes
Keith	Schuenemann
Kern	Sharpe
King	Stevenson
Loggins	Worley

A quorum was announced present.

Prayer was offered by Rev. George W. Coltrin, Chaplain.

LEAVES OF ABSENCE GRANTED

The following Members were granted leaves of absence on account of importance business:

Mr. Dollins for today, on motion of Mr. Adkins.

Mr. Dickison for today, on motion of Mr. Amos.

Mr. Worley for today, on motion of Mr. Little.

Mr. Carssow for today, on motion of Mr. Broadfoot.

Mr. Keith for today, on motion of Mr. Jones of Wise.

Mr. Quinn for today, on motion of Mr. Bradbury.

Mr. Dean for today, on motion of Mr. Mays.

Mr. Stevenson for today, on motion of Mr. Pope.

Mr. Rhodes for yesterday, on account of illness, on motion of Mr. Stocks.

The following Members were granted leaves of absence on account of important State business:

Mr. Deglandon for today, on motion of Mr. Callan.

Mr. Sharpe for today, on motion of Mr. Russell.

Mr. Rhodes for today, on motion of Mr. Blankenship.

Messrs. Baker, Harper, King, Palmer, McKinney, Schuenemann and Alexander, on motion of Mr. Metcalfe.

Mr. Derden for today, on motion of Mr. Cagle.

Mr. Davis of Haskell for today, on motion of Mr. Fuchs.

Mr. Loggins, Mr. Hyder and Mr. Harris of Archer for today, on motion of Mr. Bradbury.

Mr. Harrell for today, on motion of Mr. Bradford.

Mr. Bridgers for today, on motion of Mr. Jackson.

HOUSE BILLS ON FIRST READING

The following House bill, introduced today, was laid before the House, read first time, and referred to the appropriate committee, as follows:

By Mr. Bradford:

H. B. No. 1107, A bill to be entitled "An Act to declare a closed season on the killing of quail and bobwhites in Andrews County for a period ending January 15, 1942; prescribing a penalty therefor, and declaring an emergency."

Referred to the Committee on Game and Fisheries.

Mr. Cleveland moved to introduce, at this time, and have placed on first reading, House Bill No. 1108.

The motion prevailed by the following vote:

Yeas—106

Adkins	Holland
Alsup	Hoskins
Amos	Howard
Bates	Huddleston
Beckworth	Hull
Bell	Jackson
Blankenship	James
Boethel	Johnson of Ellis
Bond	Johnson
Boyer	of Tarrant
Bradbury	Jones of Angelina
Bradford	Jones of Atascosa
Broadfoot	Jones of Falls
Brown	Jones of Wise
Burton	Keefe
Cagle	Kelt
Callan	Kenyon
Cathey	Knetsch
Cleveland	Langdon
Davis of Jasper	Lankford
Davison of Fisher	Lanning
England	Leonard
Farmer	Leyendecker
Felty	Little
Fielden	London
Fox	Mann
Fuchs	Mauritz
Gibson	Mays
Graves	McConnell
Hamilton	McCracken
Hankamer	McKee
Hanna	Metcalfe
Harbin	Moffett
Hardin	Monkhouse
Harris of Dickens	Morris
Hartzog	Newton
Heflin	Nicholson
Herzik	Patterson of Mills

Petsch	Smith of Tarrant
Powell	Stinson
Prescott	Stocks
Ragsdale	Talbert
Reed of Bowie	Tarwater
Reed of Dallas	Tennant
Riddle	Tennyson
Roark	Thornberry
Ross	Thornton
Russell	Vale
Rutta	Waggoner
Settle	Walker
Shell	Weldon
Simpson	Winfree
Skaggs	Wood
Smith of Hopkins	

Absent

Cauthorn	Oliver
Celaya	Patterson
Colquitt	of Travis
Davisson	Pope
of Eastland	Reader
Harris of Dallas	Sewell
Leath	Smith
McFarland	of Matagorda
Morse	Westbrook

Absent—Excused

Alexander	Keith
Baker	Kern
Bridgers	King
Carssow	Loggins
Davis of Haskell	Lucas
Dean	McDonald
Deglandon	McKinney
Derden	Palmer
Dickison	Quinn
Dollins	Rhodes
Harper	Schuenemann
Harrell	Sharpe
Harris of Archer	Stevenson
Hyder	Worley

The Speaker then laid the bill before the House, it was read first time, and referred to the appropriate committee, as follows:

By Mr. Cleveland:

H. B. No. 1108, A bill to be entitled "An Act amending Article 2327, Revised Civil Statutes of Texas, 1925, as amended by Chapter 59, Acts of the Forty-first Legislature, Second Called Session, and declaring an emergency."

Referred to the Committee on Counties.

Mr. Shell moved to introduce, at this time, and have placed on first reading, House Bill No. 1109.

The motion prevailed by the following vote:

Yeas—106

Adkins	Lanning
Amos	Leonard
Bates	Leyendecker
Beckworth	Little
Bell	London
Blankenship	Mann
Boethel	Mays
Bond	McConnell
Boyer	McCracken
Bradbury	McFarland
Bradford	McKee
Broadfoot	Moffett
Brown	Monkhouse
Burton	Morris
Cagle	Morse
Callan	Newton
Cathey	Nicholson
Cauthorn	Patterson of Mills
Cleveland	Patterson
Davis of Jasper	of Travis
Davison of Fisher	Petsch
England	Powell
Farmer	Prescott
Felty	Ragsdale
Fielden	Reader
Fox	Reed of Bowie
Fuchs	Reed of Dallas
Gibson	Riddle
Graves	Roark
Hamilton	Ross
Hankamer	Russell
Hanna	Rutta
Hardin	Settle
Harris of Dickens	Shell
Hartzog	Simpson
Heflin	Skaggs
Herzik	Smith of Hopkins
Holland	Smith
Hoskins	of Matagorda
Howard	Smith of Tarrant
Huddleston	Stinson
Jackson	Stocks
James	Talbert
Johnson of Ellis	Tarwater
Jones of Angelina	Tennant
Jones of Atascosa	Tennyson
Jones of Falls	Thornberry
Jones of Wise	Thornton
Keefe	Vale
Kelt	Waggoner
Kenyon	Walker
Knetsch	Weldon
Langdon	Winfree
Lankford	Wood

Absent

Alsup	Harbin
Celaya	Harris of Dallas
Colquitt	Hull
Davisson	Johnson
of Eastland	of Tarrant

Leath	Pope	Hankamer	McKee
Mauritz	Sewell	Hanna	Moffett
Metcalfe	Westbrook	Harbin	Monkhouse
Oliver		Hardin	Morris
Absent—Excused		Harris of Dallas	Morse
Alexander	Keith	Harris of Dickens	Newton
Baker	Kern	Hartzog	Patterson of Mills
Bridgers	King	Heflin	Patterson
Carssow	Loggins	Herzik	of Travis
Davis of Haskell	Lucas	Holland	Powell
Dean	McDonald	Hoskins	Prescott
Deglandon	McKinney	Howard	Ragsdale
Derden	Palmer	Huddleston	Reed of Bowie
Dickison	Quinn	Jackson	Reed of Dallas
Dollins	Rhodes	James	Riddle
Harper	Schuenemann	Johnson of Ellis	Roark
Harrell	Sharpe	Johnson	Ross
Harris of Archer	Stevenson	of Tarrant	Russell
Hyder	Worley	Jones of Angelina	Rutta
The Speaker then laid the bill before the House, it was read first time, and referred to the appropriate committee, as follows:		Jones of Atascosa	Settle
By Mr. Shell:		Jones of Falls	Sewell
H. B. No. 1109, A bill to be entitled "An Act to amend Article 1645, Title 34, of the Revised Civil Statutes of the State of Texas of 1925, as amended by Chapter 35, General and Special Laws passed at the First Called Session of the Fortieth Legislature, as amended by Chapter 28, General and Special Laws passed at the First Called Session of the forty-first Legislature, . . . etc., and providing that if any portion of this Act be declared unconstitutional or invalid, the remainder shall not be affected thereby."		Jones of Wise	Simpson
Referred to the Committee on Counties.		Keefe	Skaggs
Mr. England moved to introduce, at this time, and have placed on first reading, House Bill No. 1110.		Kelt	Smith of Hopkins
The motion prevailed by the following vote:		Kenyon	Smith
Yeas—104		Knetsch	of Matagorda
Adkins	Callan	Langdon	Smith of Tarrant
Alsup	Cathey	Lankford	Stinson
Amos	Cauthorn	Lanning	Stocks
Bates	Cleveland	Leonard	Talbert
Beckworth	Davis of Jasper	Leyendecker	Tarwater
Bell	Davison of Fisher	Little	Tennant
Blankenship	Davisson	London	Thornberry
Boethel	of Eastland	Mann	Thornton
Boyer	England	Mauritz	Vale
Bradbury	Felty	Mays	Waggoner
Bradford	Fielden	McConnell	Walker
Broadfoot	Fox	McCracken	Weldon
Brown	Fuchs	McFarland	Wood
Burton	Gibson	Absent	
Cagle	Hamilton	Bond	Oliver
		Celaya	Petsch
		Colquitt	Pope
		Farmer	Reader
		Graves	Shell
		Hull	Tennyson
		Leath	Westbrook
		Metcalfe	Winfree
		Nicholson	
		Absent—Excused	
		Alexander	Keith
		Baker	Kern
		Bridgers	King
		Carssow	Loggins
		Davis of Haskell	Lucas
		Dean	McDonald
		Deglandon	McKinney
		Derden	Palmer
		Dickison	Quinn
		Dollins	Rhodes
		Harper	Schuenemann
		Harrell	Sharpe
		Harris of Archer	Stevenson
		Hyder	Worley

The Speaker then laid the bill before the House, it was read first time, and referred to the appropriate committee, as follows:

By Mr. England:

H. B. No. 1110, A bill to be entitled "An Act providing for the annual assessment and collection of a tax on premiums for motor vehicle insurance policies written by stock companies, mutual companies, reciprocal or inter-insurance exchanges, or Lloyds associations, to defray the salaries and expenses of carrying out the provisions of Chapter 253, page 373, Acts of the Regular Session of the Fortieth Legislature, and providing that any unexpended balance shall be carried over in succeeding years in a separate fund, and shall reduce the assessment for succeeding years, and declaring an emergency."

Referred to the Committee on Insurance.

MESSAGE FROM THE SENATE

Austin, Texas, April 16, 1937.
Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has concurred in House amendments to Senate Bill No. 235 by the following vote: Yeas, 31; Nays, 0.

The Senate has refused to concur in House amendments to Senate Bill No. 47 and requests the appointment of a conference committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate:

Senators Cotten, Van Zandt, Head, Burns and Isbell.

Has concurred in House amendments to Senate Bill No. 89 by the following vote: Yeas, 29; Nays, 0.

Respectfully,

BOB BARKER,
Secretary of the Senate.

GRANTING PERMISSION TO SUE THE STATE

The Speaker laid before the House, for consideration at this time, House Concurrent Resolution No. 82, Granting Miss Loulie Gurley permission to sue the State.

The resolution having heretofore been read second time and referred to the Committee on State Affairs.

The Committee on State Affairs having recommended the adoption of the resolution:

Question recurring on the resolution, it was adopted.

TO PROVIDE FOR CERTAIN INVESTIGATION

Mr. Bond offered the following resolution:

Whereas, The House of Representatives did heretofore pass a simple resolution authorizing and directing an investigation of the operations of the State Department of Education and appropriating the sum of Five Hundred (\$500.00) Dollars out of the Contingent Expense Fund of the House of Representatives for such purpose; and

Whereas, In accordance with the terms of such resolution an investigating committee was heretofore appointed, composed of the following Members: Bowlen Bond, Howard Davison, Marvin London, Virgil Fielden and Alfred Petsch; and

Whereas, Said committee, upon close examination of such resolution, is convinced that the terms thereof are too circumscribed and limited in order to permit the committee to make a thorough investigation of the alleged irregular operation of the Department of Education and other matters incident thereto to the extent of enabling the committee to produce the facts which would be of value to the Legislature in the passage of such legislation which might become necessary by virtue of the facts found by the committee; and

Whereas, It was the intention of the Legislature in the passage of the former resolution to make the action of the committee worthwhile and beneficial to the welfare of the State of Texas; therefore, be it

Resolved,

First: That the aforementioned committee of five members is hereby directed to investigate all operations of the Department of Education and any irregularities connected with the operation of such Department and all matters pertinent to the management and protection of the public school lands and funds of this State.

Second: Said committee shall have the power to formulate its own rules of procedure and evidence, and to provide for its own hours of meeting and adjournment; it shall hold its

sessions in Austin, Texas, at all times the committee may, upon its own motion, hold executive sessions, open, however, to the Members of the Legislature, the Governor and the Attorney General of Texas.

Third: The committee shall have the power to issue process for witnesses to any place within the State and to compel the attendance of such witnesses and the production of any records or books deemed pertinent by the committee to this investigation; upon disobedience to any subpoena said committee shall have the power to issue attachments, which may be addressed and served either by the sergeant-at-arms appointed by the committee or by any sheriff or constable of the State of Texas; said committee shall further have the power to inspect any books, make copies of any books or records, examine and audit books of any person, association, or corporation having any transactions with the Department of Education and other matters incident thereto; the committee shall also have the further power to administer oaths or affirmations, and fix bond of attached witnesses.

Fourth: Witnesses attending the sessions of said committee under process shall be allowed the same mileage and per diem as is allowed witnesses in the trial of criminal cases in the District Court.

Fifth: The committee shall have the power and authority to employ and compensate necessary stenographers, clerks and other necessary employees; it is expressly charged with the duty of keeping a stenographic record of all testimony and proceedings relating to the investigation and to have such records transcribed, and to file a copy thereof with the Chief Clerk of the House of Representatives, the Secretary of State, and the State Librarian.

Sixth: The committee shall begin its investigation at the earliest possible time and shall make its report to this Legislature; the members of the committee shall receive no compensation for the services by them rendered; witness fees, stenographic hire, and all other expenses incident to the investigation shall be paid out of the appropriation for mileage and per diem and contingent expenses made at this Regular Session of the Forty-fifth Legislature; and the total expenses of the committee shall not

exceed the sum of \$500.00, and such amount of money is herewith appropriated out of the Contingent Expense Fund of the House to meet the payments of the expenses of the investigation; the warrants to pay such expenses shall be signed by the Speaker of the House and Chairman of the Committee on Contingent Expenses.

Seventh: And the committee is herewith further empowered to do each and every act and thing reasonably necessary to enable the committee to carry out the purposes for which it was created even though such powers may not be specially provided for herein.

BOND,
DAVISON of Fisher,
FIELDEN,
LONDON,
PETSCH.

The resolution was read second time.

Mr. Hankamer moved that the House adjourn until 10:00 o'clock a. m., next Monday.

Question recurring on the motion to adjourn, yeas and nays were demanded.

The motion was lost by the following vote:

Yeas—10

Cagle	Kenyon
Cauthorn	McFarland
Hankamer	Nicholson
Hartzog	Sewell
Hull	Smith of Hopkins

Nays—96

Adkins	Fox
Alsup	Fuchs
Amos	Gibson
Bates	Hamilton
Beckworth	Hanna
Bell	Harbin
Blankenship	Hardin
Boethel	Harris of Dallas
Boyer	Harris of Dickens
Bradbury	Heflin
Brown	Herzik
Burton	Holland
Callan	Hoskins
Cathey	Howard
Cleveland	Huddleston
Davis of Jasper	Jackson
Davison of Fisher	James
Davisson	Johnson of Ellis
of Eastland	Johnson
England	of Tarrant
Farmer	Jones of Angelina
Felty	Jones of Atascosa

Jones of Falls	Reader
Jones of Wise	Reed of Bowie
Keefe	Reed of Dallas
Kelt	Riddle
Knetsch	Roark
Langdon	Ross
Lankford	Russell
Lanning	Rutta
Leyendecker	Settle
Little	Simpson
London	Skaggs
Mann	Smith
Mauritz	of Matagorda
Mays	Smith of Tarrant
McConnell	Stinson
McCracken	Stocks
McKee	Talbert
Metcalfe	Tarwater
Moffett	Tennant
Monkhouse	Tennyson
Morris	Thornberry
Morse	Thornton
Newton	Vale
Patterson	Waggoner
of Travis	Walker
Petsch	Weldon
Powell	Westbrook
Prescott	Wood
Ragsdale	

Present—Not Voting

Bond

Absent

Bradford	Leonard
Broadfoot	Oliver
Celaya	Patterson of Mills
Colquitt	Pope
Fielden	Shell
Graves	Winfree
Leath	

Absent—Excused

Alexander	Keith
Baker	Kern
Bridgers	King
Carssow	Loggins
Davis of Haskell	Lucas
Dean	McDonald
Deglandon	McKinney
Derden	Palmer
Dickison	Quinn
Dollins	Rhodes
Harper	Schuenemann
Harrell	Sharpe
Harris of Archer	Stevenson
Hyder	Worley

Mr. Reed of Bowie moved that the resolution be tabled.

Question recurring on the motion to table the resolution, yeas and nays were demanded.

The motion to table was lost by the following vote:

Yeas—15

Adkins	Jackson
Bradford	Mann
Cleveland	Newton
Davisson	Reed of Bowie
of Eastland	Roark
Hardin	Rutta
Harris of Dickens	Sewell
Huddleston	Smith of Hopkins

Nays—93

Alsup	Lankford
Amos	Lanning
Bates	Leyendecker
Beckworth	Little
Bell	London
Blankenship	Mauritz
Boethel	Mays
Bond	McConnell
Boyer	McCracken
Bradbury	McFarland
Broadfoot	McKee
Brown	Metcalfe
Burton	Moffett
Cagle	Monkhouse
Callan	Morris
Cathey	Morse
Cauthorn	Nicholson
Davis of Jasper	Patterson of Mills
Davison of Fisher	Patterson
England	of Travis
Farmer	Petsch
Felty	Powell
Fielden	Prescott
Fox	Ragsdale
Fuchs	Reader
Gibson	Reed of Dallas
Hamilton	Riddle
Hankamer	Ross
Hanna	Russell
Harbin	Settle
Harris of Dallas	Shell
Hartzog	Skaggs
Herzik	Smith
Holland	of Matagorda
Hoskins	Smith of Tarrant
Howard	Stinson
Hull	Stocks
James	Talbert
Johnson of Ellis	Tarwater
Jones of Angelina	Tennant
Jones of Atascosa	Tennyson
Jones of Falls	Thornberry
Jones of Wise	Thornton
Keefe	Waggoner
Kelt	Walker
Kenyon	Weldon
Knetsch	Wood
Langdon	

Present—Not Voting

Simpson

Absent

Celaya	Leonard
Colquitt	Oliver
Graves	Pope
Heflin	Vale
Johnson	Westbrook
of Tarrant	Winfree
Leath	

Absent—Excused

Alexander	Keith
Baker	Kern
Bridgers	King
Carssow	Loggins
Davis of Haskell	Lucas
Dean	McDonald
Deglandon	McKinney
Derden	Palmer
Dickson	Quinn
Dollins	Rhodes
Harper	Schuenemann
Harrell	Sharpe
Harris of Archer	Stevenson
Hyder	Worley

Mr. Hull offered the following amendment to the resolution:

Amend the resolution, Section 2, page two, and line two, by adding the words "and representatives of the press who regularly have the privileges of the floor of the House."

Mr. Petsch moved to table the amendment by Mr. Hull.

The motion to table prevailed.

Mr. Lanning offered the following amendment to the resolution:

Insert between "Committee shall" in the first line on last page of the resolution the following: "and all other expense incidental to the investigation".

The amendment was adopted.

Mr. Davison of Fisher moved the previous question on the resolution, and the main question was ordered.

The resolution, as amended, was then adopted.

Mr. Bond moved to reconsider the vote by which the resolution was adopted, and to table the motion to reconsider.

The motion to table prevailed.

CONSIDERATION OF HOUSE JOINT RESOLUTION NO. 10

The Speaker laid before the House, as pending business, on its passage to engrossment,

H. J. R. No. 10, Proposing to amend

the Constitution of Texas by adding a new section to be known as Section 30b of Article XVI of the Constitution providing four (4) year terms of office for all Precinct, County and District offices, and providing that incumbents in office at the time of the adoption of this amendment shall hold for four year term instead of a two year term; amending Section 4 of Article III, providing for manner of election and apportionment of Members of the House of Representatives; providing for an election on the question of adoption or rejection of said amendments and making an appropriation therefor.

The resolution having heretofore been read second time.

Mr. Jones of Falls moved that the House adjourn until 10:00 o'clock a. m., next Monday.

The motion to adjourn was lost.

Mr. McKee moved to postpone further consideration of House Joint Resolution No. 10 until 10:00 o'clock a. m., next Tuesday.

Mr. Jones of Wise moved, as a substitute motion, to postpone further consideration of House Joint Resolution No. 10 until 11:00 o'clock a. m., next Wednesday.

Mr. McKee moved to table the substitute motion by Mr. Jones of Wise.

The motion to table prevailed.

Question then recurring on the motion to postpone the resolution until 10:00 o'clock a. m., next Tuesday, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—89

Adkins	Davisson
Alsup	of Eastland
Amos	England
Beckworth	Fielden
Bell	Gibson
Blankenship	Hankamer
Boethel	Hanna
Bond	Harbin
Boyer	Hardin
Bradford	Harris of Dallas
Broadfoot	Hartzog
Brown	Heflin
Burton	Herzik
Cagle	Hoskins
Callan	Howard
Cathey	Huddleston
Cauthorn	Hull
Cleveland	Jackson
Davis of Jasper	James

Johnson of Ellis	Reader
Johnson of Tarrant	Reed of Bowie
Jones of Angelina	Reed of Dallas
Jones of Atascosa	Riddle
Jones of Falls	Roark
Kenyon	Russell
Knetsch	Settle
Langdon	Sewell
Lankford	Shell
Leonard	Simpson
Leyendecker	Skaggs
Little	Smith of Hopkins
London	Smith of Matagorda
Mann	Smith of Tarrant
Mauritz	Stinson
Mays	Stocks
McCracken	Talbert
McFarland	Tennant
McKee	Tennyson
Moffett	Thornberry
Monkhouse	Thornton
Morris	Vale
Morse	Walker
Newton	Westbrook
Patterson of Mills	Winfree
Prescott	Wood

Nays—24

Bates	Lanning
Bradbury	McConnell
Davison of Fisher	Metcalf
Farmer	Patterson
Felty	of Travis
Fox	Petsch
Graves	Powell
Hamilton	Ragsdale
Harris of Dickens	Ross
Holland	Rutta
Jones of Wise	Tarwater
Keefe	Weldon
Kelt	

Absent

Celaya	Nicholson
Colquitt	Oliver
Fuchs	Pope
Leath	Waggoner

Absent—Excused

Alexander	Keith
Baker	Kern
Bridgers	King
Carssow	Loggins
Davis of Haskell	Lucas
Dean	McDonald
Deglandon	McKinney
Derden	Palmer
Dickison	Quinn
Dollins	Rhodes
Harper	Schuenemann
Harrell	Sharpe
Harris of Archer	Stevenson
Hyder	Worley

PROPOSED AMENDMENT TO
RULE NO. XVIII OF THE
HOUSE RULES

Mr. Morse offered the following resolution:

Be it Resolved by the House of Representatives, That House Rule No. XVIII be amended, by striking out all of Section 2.

The resolution was read second time, and was referred, by the Speaker, to the Committee on Rules.

HOUSE BILL NO. 111 ON PASSAGE
TO ENGROSSMENT

The Speaker laid before the House, as unfinished business, on its passage to engrossment,

H. B. No. 111, A bill to be entitled "An Act to amend Articles 7101, Chapter 4, Title 122, Articles 7162, 7174, Chapter 6, Title 122, and Articles 7183, 7184, 7192, 7193, 7204, 7214, 7215, 7216, 7221 and 7224, Chapter 7, Title 122, Revised Civil Statutes of Texas of 1925."

The bill having heretofore been read second time.

Question—Shall House Bill No. 111 pass to engrossment?

BILLS SIGNED BY THE
SPEAKER

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read severally, the following enrolled bills:

S. B. No. 83, "An Act providing for the protection of the public health, etc., and declaring an emergency."

S. B. No. 245, "An Act to amend Article 492 of Chapter 8, Title 16 of the Revised Civil Statutes of Texas, 1925, with respect to state control of banking institutions; providing that corporations organized under such title are declared to be governmental instrumentalities of the State; etc."

S. B. No. 377, "An Act making an emergency appropriation to the Texas Prison System, and declaring an emergency."

S. B. No. 452, "An Act creating a more efficient road law for Parmer County, Texas, and declaring an emergency."

S. B. No. 417, "An Act authorizing the County Judge to employ a stenographer or clerk in any county having

a population of not more than 15,175 and not less than 15,125 inhabitants according to the last preceding census; regulating the salary of same; providing for payment of salary; providing for removal, and declaring an emergency."

S. B. No. 222, "An Act to provide for the cession by the State of Texas to the United States of America of all right, title, and interest which the State of Texas may have in and to certain lands in Cameron and Hidalgo Counties, and declaring an emergency."

S. B. No. 376, "An Act to amend Article 6069, Revised Civil Statutes of Texas, relating to the duties of the State Parks Board, and declaring an emergency."

S. B. No. 455, "An Act validating the detachment of certain territory from Orangedale Common School District No. 23 of Bee County and the annexation of same to the Beeville Independent School District of said county, pursuant to the provisions of Chapter 339, Acts of the Forty-fourth Legislature, Regular Session; validating an election held in said Orangedale Common School District No. 23 on the 19th day of December, 1936, to determine whether or not said territory should be detached from said Orangedale Common School District No. 23 and annexed to Beeville Independent School District; validating an order of the County Board of School Trustees of Bee County, Texas, establishing and defining the Beeville Independent School District No. 1; validating an election held on the 3rd day of April, 1937, in Beeville Independent School District No. 1 on the question of the assumption of the outstanding bonds of the former Beeville Independent School District and the proportionate part of the outstanding bonds of Orangedale Common School District No. 23, and declaring an emergency."

S. B. No. 226, "An Act to increase the police powers of all incorporated cities and towns, and declaring an emergency."

S. B. No. 406, "An Act to increase the civil jurisdiction of the county court of Collingsworth County, and declaring an emergency."

S. B. No. 317, "An Act making it unlawful to use or possess a seine, net or trawl in certain waters of

Nueces County, and declaring an emergency."

H. B. No. 81, "An Act to aid the Pease River Flood Control District, a State agency, in carrying out the purposes for which it was created by Chapter 420, General and Special Laws, First Called Session, Forty-fourth Legislature (Senate Bill No. 62 of said Session), including the acquiring of the lands, leases, easements and acquittances, rights-of-way, structures, buildings and equipment, and including the operation of structures, dams, reservoirs and canals, suitable, in so far as practicable, for the control of the flood waters of the Pease River watershed, declared to be a public calamity, granting and donating, with certain limitations, to said District for a period of two years all of the State ad valorem taxes in the following counties, which otherwise would go into the General Revenue Fund of the State of Texas, namely: Cottle, Foard, Hardeman and Wilbarger; . . . etc., and declaring an emergency."

S. B. No. 454, "An Act providing for the appointment of Grand Jury Bailiffs by the Judge of the Criminal District Court in any county having a population of not less than two hundred and ninety thousand (290,000) inhabitants and not more than three hundred and twenty thousand (320,000) inhabitants, according to the United States Census of 1930 and all future Federal Census, etc., and declaring an emergency."

S. B. No. 443, "An Act creating a Special Road Law for Waller County, Texas, and declaring an emergency."

S. B. No. 420, "An Act relating to the jurisdiction of the county court of Sterling County, and declaring an emergency."

EXPRESSING SYMPATHY OF THE HOUSE TO THE HONORABLE LYNDON JOHNSON

Mr. Riddle offered the following resolution:

Whereas, The Honorable Lyndon Johnson, Congressman-elect, is confined in the Seton Infirmary in Austin on account of illness; and

Whereas, The Members of the House of Representatives deeply sympathize with Mr. Johnson in his illness; now, therefore, be it

Resolved, That the House of Representatives extend sympathy to Mr.

Johnson and best wishes for a speedy and complete recovery; and, be it further

Resolved, That a copy of this resolution be forwarded by the Chief Clerk of the House to Mr. Johnson.

RIDDLE,
JAMES.

The resolution was read second time.

Signed—Calvert, Speaker, Adkins, Alexander, Alsup, Amos, Baker, Bates, Beckworth, Bell, Blankenship, Boethel, Bond, Boyer, Bradbury, Bradford, Bridgers, Broadfoot, Brown, Burton, Cagle, Callan, Carssow, Cathey, Cauthorn, Celaya, Cleveland, Colquitt, Davis of Haskell, Davis of Jasper, Davison of Fisher, Davison of Eastland, Dean, Deglandon, Derden, Dickson, Dollins, England, Farmer, Felty, Fielden, Fox, Fuchs, Gibson, Graves, Hamilton, Hankamer, Hanna, Harbin, Hardin, Harper, Harrell, Harris of Archer, Harris of Dallas, Harris of Dickens, Hartzog, Heflin, Herzik, Holland, Hoskins, Howard, Huddleston, Hull, Hyder, Jackson, James, Johnson of Ellis, Johnson of Tarrant, Jones of Angelina, Jones of Atascosa, Jones of Falls, Jones of Wise, Keefe, Keith, Kelt, Kenyon, Kern, King, Knetsch, Langdon, Lankford, Lanning, Leath, Leonard, Leyendecker, Little, Loggins, London, Lucas, Mann, Mauritz, Mays, McConnell, McCracken, McDonald, McFarland, McKee, McKinney, Metcalfe, Moffett, Monkhouse, Morris, Morse, Newton, Nicholson, Oliver, Palmer, Patterson of Mills, Patterson of Travis, Petsch, Pope, Powell, Prescott, Quinn, Ragsdale, Reader, Reed of Bowie, Reed of Dallas, Rhodes, Roark, Ross, Russell, Rutta, Schuene-mann, Settle, Sewell, Sharpe, Shell, Simpson, Skaggs, Smith of Hopkins, Smith of Matagorda, Smith of Tarrant, Stevenson, Stinson, Stocks, Talbert, Tarwater, Tennant, Tennyson, Thornberry, Thornton, Vale, Waggoner, Walker, Weldon, Westbrook, Winfree, Wood and Worley.

On motion of Mr. Hoskins, the names of all the Members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted.

HOUSE BILL NO. 322 ON SECOND READING

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 322, A bill to be entitled "An Act to prevent unfair and deceptive merchandising practices; making unlawful certain discriminations in price, service or facilities furnished, or in payment for service or facilities to be rendered in connection with the sale of commodities in the course of trade or commerce in Texas; defining cost and other terms contained therein; providing for penalties and certain specific remedies for violation of the provisions herein; providing that those engaged in selling goods, wares or merchandise in this State may select their own customers; providing for price changes under certain conditions; providing for defense of person charged with violation of this Act; providing for the distribution by cooperatives of net profits to members thereof; providing against the sale or the offering for sale of products at less than cost; providing the system of arriving at or establishing the cost of a given article, product or commodity to the distributor or vendor; providing for exemptions or exceptions to Sections 4 and 5 hereof; designating this Act as the 'Anti-Discrimination Act'; fixing venue for suits brought hereunder; providing that if any part, phrase, section, sentence or clause is declared invalid or unconstitutional it shall not affect the validity of the remainder of the Act, and declaring an emergency."

The bill was read second time.

(Mr. Roark in the Chair.)

Mr. Morris offered the following committee amendment to the bill:

Amend House Bill No. 322, by striking out all below the enacting clause and insert in lieu thereof the following:

Section 1. When used in this Act, unless the context otherwise requires—

(a) The term "Person" means any individual, corporation, partnership, co-partnership, agent, firm, trustee, receiver, association, joint stock company, business trust, or unincorporated organization;

(b) The term "Price" as used herein shall mean the net price to the buyer after the deduction of all discounts, rebates, or other price concessions paid, granted, or allowed by the seller, exclusive of the customary cash discounts.

(c) The term "Commerce" means trade or commerce within this State;

(d) The terms "Service" and "Facilities" herein used shall be construed to mean any service or facilities promised, extended, granted, accepted, used, or supplied in the handling, sale, or purchase of any physical or tangible article, product, or commodity, or offer of inducement, in the handling, purchase, or sale of any physical or tangible article, product, or commodity; but shall not apply to any service or facilities the charges of which are controlled by the State or any political subdivision.

(e) The term "Customary Cash Discounts" herein used shall be construed to mean the generally recognized and established discounts granted or allowed for prompt payment of purchases and sales, in the ordinary conduct of business and through the regular channels of commerce and trade.

Section 2. (a) It shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, or to discriminate in price between different sections, communities, or cities or portions thereof, or between different localities in such sections, communities, cities or portions thereof in this State, where the effect of such discrimination may substantially lessen competition or tend to create a monopoly in any line of commerce, or to lessen, injure, destroy, prevent, hinder, or suppress competition with any person who either grants or knowingly receives the benefit of such discrimination, or with the customers of either of them; provided, nothing contained herein shall prevent differences which make only due allowance for differences in the cost of manufacture, sale, or delivery, and/or in the grade, quality, or quantity, and in the actual cost of transportation from the point of production, if a raw article, product or commodity, or from the point of manufacture, if a manufactured article, product, or commodity, where the effect or application of such discrimination may not or does not tend to lessen, injure, destroy, prevent, hinder, or suppress the competition of any regular established dealer in such article, product, or commodity, or where the effect of

such discrimination may or tends to lessen, injure, destroy, prevent, hinder, or suppress the competition of any person, who, or which, in good faith, intends or attempts to become a regular dealer, or where the effect of such discrimination tends to create a monopoly in any line of commerce.

(b) It shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or promise to pay, grant, or promise to grant, or to receive or accept anything of value as a commission, brokerage, concession, rebate, or other compensation, or any allowance or discount in lieu thereof, exclusive of the customary cash discounts, except for services actually rendered in connection with the sale or purchase of goods, wares, or merchandise either to the other party to the transaction, or to the agent, representative, or other intermediary therein, where such agent, representative, or other intermediary is acting in fact for or in behalf of, or is subject to the immediate, direct, or indirect control of any party to such transaction, other than the person by whom such compensation is so granted or paid.

(c) It shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any article, product, or commodity manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such articles, products, or commodities.

(d) It shall be unlawful for any person engaged in commerce, in the course of such commerce, to discriminate in favor of one purchaser against another purchaser or purchasers of any article, product, or commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of any services or facilities connected with the processing, handling, sale, or offering for sale of such article, product, or commodity so purchased upon terms

not accorded to all purchasers on proportionally equal terms.

(e) It shall be unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by this Section.

Section 3. Unfair, deceptive, and discriminatory methods of competition in the production, manufacture, sale, and distribution of articles, products, and commodities, services, and facilities, within the State of Texas, are hereby declared unlawful.

The term "unfair, deceptive, and discriminatory methods" as herein used, shall mean any act or action, uses or practice in or in connection with the production, manufacture, sale of, or offer or advertising to sell goods, wares, or merchandise, which are characterized in whole or in part by fraud, misrepresentation, or deception, and without limitation shall include such methods as are specifically set forth in this Act, and, in addition thereto, without limitation, shall include loss leader sales, namely: sales, or offers for sale, or offers to sell below cost any article, product, or commodity, where the effect of the sale or offer to sell of such loss leader may or tends to lessen, injure, destroy, prevent, hinder, or suppress competition of any regular established dealer in such article, product, or commodity. Any sale, offer for sale, or offer to sell such article, product, or commodity below the cost thereof shall in all civil proceedings hereunder be presumed to be a "loss leader sale."

Section 4. It shall be unlawful for any person engaged in business in this State to sell, offer for sale, or advertise for sale any article, product, or commodity at less than cost thereof to the vendor, or give, offer to give, or advertise the intent to give away any article, product, or commodity, where the effect of such sale below cost, or the giving or offering to give, or advertising the intent to give away any article, product, or commodity may or tends to lessen, injure, destroy, prevent, hinder, or suppress the competition of competitors of such person engaged in business within this State.

The term "Cost" as applied to production is hereby defined as including the cost of raw materials, labor, and all overhead expenses of the pro-

ducer; and as applied to distribution "cost" shall mean the invoice or replacement cost, whichever is lower, of the article, product, or commodity to the distributor and vendor plus the cost of doing business by said distributor and vendor. Provided no invoice more than sixty (60) days old shall be used in this connection.

The phrase "cost of doing business" or "overhead expense" is defined as the monthly average of all costs of doing business incurred in the conduct of such business during the twelve (12) months immediately preceding any alleged violation of this Act, or in the event any person shall be engaged in business within this State for a shorter period of time, then in that event the monthly average cost for any period immediately preceding any alleged violations of this Act. The "cost of doing business" and "overhead expense" defined in this Section must include without limitation the following items of expense: Labor (including salaries of executives and officers), rent, interest on capital invested, whether borrowed or not, depreciation, selling cost, maintenance of equipment, buildings and fixtures, transportation and delivery costs whether fixed under tariffs approved by the State rate-making authorities or arrived at by other methods or means, light, heat, power, and water, credit losses, all forms of licenses, taxes, insurance and advertising, and such other regular or special items of expense, whether incurred directly or indirectly, in the conduct of such business or growing out of or pertaining to, such business.

Section 5. This Act shall not be construed to prohibit the meeting, by any person in good faith, of a legal competitive price, but the inhibition hereof against discrimination shall embrace any scheme, plan or system or special, irregular or confidential rebates, collateral contracts for any purpose or consideration, or any device of any nature whereby such discrimination is, in substance or fact, effected in violation of the spirit and/or intent of this Act. Provided, nothing herein contained shall prevent any person engaged in selling goods, wares or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade, and provided, further, that nothing herein contained

shall prevent price changes from time to time where, in response to changing conditions affecting the market for, or the marketability of, the goods concerned, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, sales in good faith in discontinuance of business in the goods concerned, or in good faith to meet a legal competitive price of the goods, wares, or merchandise of the same brand, quality, or trade mark.

Section 6. Nothing in the Act shall prevent a co-operative association from returning to its members, producers, or customers the whole, or any part of, the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through, the association, but then only when such earnings or surplus shall be set up, designated or authorized in due course and regular legal order by the directors of such association.

Section 7. The cost of a given article, product, or commodity to the distributor or vendor, when purchased at a forced, bankrupt, closeout, or other character of sale outside or exclusive of the ordinary channels and manner of trade, shall not be used as a basis for a justified re-sale price of said article, product, or commodity when said re-sale price is lower than the one based upon the replacement cost as of the date of said re-sale of said article, product, or commodity when replaced through the ordinary channels and manner of trade; unless and provided said article, product, or commodity so purchased is kept separate from goods, wares, or merchandise purchased in the ordinary channels and manner of trade; and unless, at the place where said goods are so sold and segregated, said article, product, or commodity is advertised and sold as merchandise purchased at a forced bankrupt, closeout, or other character of sale outside or exclusive of, or by means or any condition other than through the ordinary channels and manner of trade. Any advertising or notice concerning the articles, products, or commodities referred to in this Section or their re-sale, shall state the character of the purchase and conditions under which said goods were so purchased, together with the quantity and amount of such articles, products, or commodities, and the

character of the sale under which said articles, products, or commodities are to be re-sold or offered for re-sale.

The terms "ordinary channels" and "manner of trade" shall mean those ordinary, regular, and daily transactions in commerce whereby title to an article, product, or commodity, in no way damaged or deteriorated, is transferred from one person to another, and shall not include sales of bankrupt stocks, close-out goods, dents, sales of goods bought from a business or merchant retiring from business, firesales and sales of damaged or deteriorated goods; provided that the listing contained in this paragraph shall not be held to be all inclusive but as examples only.

Section 8. The provisions of Sections 4 and 5 of this Act shall not apply, provided prior notice is given to the public, to any sale made:

(a) In closing out in good faith the owner's stock or any part thereof for the purpose of discontinuing his trade in any such stock, article, product, or commodity;

(b) In the case of the sale of seasonal goods, articles, products, or commodities or to the bona fide sale of perishable goods, to prevent loss to the vendor by spoilage or depreciation, the failure of which sale would result in actual loss to the vendor;

(c) When the goods, wares, or merchandise are damaged or deteriorated in quality;

(d) By an officer acting under the orders of any court;

(e) In an endeavor made in good faith to meet the legal prices of a competitor selling the same article, product, or commodity in the same locality or area.

Section 9. The secret or discriminatory payment or allowance of rebates, refunds, commissions or unearned discounts, whether in the form of money or otherwise, or secretly extending, to any purchasers, special advantages, services or privileges, either in addition to or exclusive of the customary cash discounts, not extended to all purchasers purchasing upon like terms and conditions, to the injury of a competitor, or where such secret or discriminatory payment or allowance tends to destroy competition, or has the effect to lessen, injure, destroy, prevent, hinder, or suppress competition is hereby

declared unlawful, and any person resorting to such discrimination or secret practice shall be deemed guilty of a misdemeanor and on conviction thereof shall be subject to the penalties set out in Section 10 of this Act.

Section 10. (a) Any person injured by any violation, or who will suffer injury from any threatened violation of this Act, may maintain an action, in any court of general equitable jurisdiction of this State, to prevent, restrain or enjoin such violation or threatened violation. If, in such action, a violation or threatened violation of this Act shall be established, the court shall enjoin and restrain or otherwise prohibit such violation or threatened violation, and the plaintiff in such action shall be entitled to recover three-fold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee.

(b) In the event no injunctive relief is sought or required, any person injured by any violation of this Act may maintain an action for damages alone in any court of general jurisdiction in this State, and the measure of damages in such action shall be the same as that provided for in Subsection (a) of this Section.

(c) Any contract or agreement, written or oral, expressed or implied, made by any person in violation of any of the provisions of this Act, is declared to be illegal and no recovery thereon shall be had.

Section 11. Any person now or hereafter engaged in commerce in this State, as defined in this Act, may maintain an action to enjoin a continuance of any act or acts in violation of this Act, and, if injured thereby, for the recovery of damages. If, in such action, the court shall find that the defendant is violating or has violated any of the provisions of this Act, it shall enjoin the defendant from continuance thereof. In addition to such injunctive relief, the plaintiff in such action shall be entitled to recover from the defendant three times the amount of actual damages, if any, sustained.

Section 12. In addition to all other specific and implied remedies provided in this Act, actions for injunction hereunder shall be prosecuted by the Attorney General or any district or county attorney in this State in the name of the State of Texas upon their own complaint or upon complaint of

any board, or any director or officer of, any person, or by any person acting for the interest of itself, its members or the general public.

Section 13. Any person who, either as director or officer of, or as agent of, any person, violates the provisions of this Act, or assists or aids, directly or indirectly, in such violation, shall be responsible therefor equally with the person for whom or for which he acts.

Section 14. This Act shall be known and designated as "the Anti-Discrimination Act" and its inhibitions against Discrimination shall embrace any and every scheme, plan or practice of secret, special and discriminatory concessions or rebates, any collateral contracts or agreements, or any device of any nature whereby discrimination is, in substance or fact, effected in violation of the spirit and intent of this Act.

Section 15. If any section, subsection, paragraph, sentence, clause, phrase, word or provision of this Act, or the application thereof in any circumstance, is held invalid, the remainder of the Act and the application of the remaining provisions shall not be affected thereby.

The Legislature declares that the purpose of this Act is to safeguard the public against the creation or perpetuation of monopolies whose practices are discriminatory and are in restraint of fair and reasonable competition; and the Legislature further declares that the purpose of this Act is to foster and encourage reasonable and fair competition by prohibiting unfair, deceptive, dishonest, destructive, fraudulent and discriminatory practices by which fair, honest and reasonable competition is destroyed and prevented. This Act shall be, therefore, liberally construed that its beneficial purposes may be properly subserved.

Section 16. The fact that unfair and discriminatory practices do exist in restraint of fair and honest competition, the fact that the Congress of the United States has taken cognizance of widespread discriminatory practices throughout the Nation in interstate commerce to the end that an amendment has been added to the Federal anti-trust laws on this subject to prevent, restrain and eliminate such practices in interstate commerce; the fact that other States of the nation, through their legislative bodies,

have enacted legislation to safeguard intrastate commerce therein against intrastate discrimination, the fact that the Bill or Rights of the Texas Constitution specifically declares that "monopolies are contrary to the genius of a free government, and shall never be allowed," and the further fact that the State of Texas faces serious dangers imminent to those of her citizens engaged in intrastate commerce in the absence of an Act prohibiting discrimination in intrastate commerce, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Mr. Morris offered the following amendment to the committee amendment:

Amend committee amendment No. 1 to House Bill No. 322, as follows:

By striking out all after the word "violation" in line 8 of Subdivision (a), Section 10, and insert in lieu thereof, the following: "and upon conviction thereof defendant shall be punished as follows: For the first conviction the defendant shall pay to the plaintiff three-fold the damages sustained by the plaintiff, and the costs of suit, including a reasonable attorney's fee; upon the second conviction, the defendant shall pay to the plaintiff three-fold the damages sustained by the plaintiff, and the cost of suit, including a reasonable attorney's fee, and in addition thereto the Court may, on his own motion, remand the defendant to jail for a period of not more than thirty (30) days; for the third conviction, the defendant shall pay to the plaintiff three-fold the damages sustained by the plaintiff, and the cost of suit, including a reasonable attorney fee, and the defendant may, upon such third conviction be confined in jail for a period of time not to exceed sixty (60) days."

The amendment was adopted.

The committee amendment, as amended, was then adopted.

Mr. Morris offered the following committee amendment to the bill:

Amend House Bill No. 322, by striking out all above the enacting clause and insert in lieu thereof the following:

"A BILL

To Be Entitled

An Act to restrain and prevent unfair, discriminatory and deceptive merchandising practices in the State of Texas; defining the terms "Person", "Price", "Commerce", "Service and Facilities", "customary cash discounts", "unfair, deceptive and discriminatory methods", "cost", "cost of doing business", "overhead expenses", "ordinary channels" and "manner of trade", and defining other terms; making it unlawful for any person engaged in commerce, in the course of such commerce, to discriminate in price between purchasers of commodities of like grade and quality and between different sections, communities, cities or portions thereof, or between localities in such sections, communities or portions thereof in this State, where the effect of such discrimination may lessen competition or tend to create a monopoly, or to lessen, injure, destroy, prevent, hinder or suppress competition with any person who grants or knowingly receives the benefits thereof; providing for differentials in prices between competitors and goods, wares and merchandise under certain and limited conditions; making it unlawful for any person engaged in commerce, in the course thereof, to pay, grant, or receive a valuable consideration as compensation for brokerage, either in addition to or exclusive of, the customary cash discount except under certain conditions; making it unlawful for any person engaged in commerce, in the course thereof, to contract for the payment of any valuable consideration for the benefit of a customer of certain persons or in consideration of any services or facilities in connection with the processing, handling, sale, or offering for sale of any article, product, or commodity, or for the purchase of any article, product, or commodity bought for re-sale, unless the same valuable consideration, service, and facilities are available and are accorded to all customers and purchasers upon proportionally equal terms; making it unlawful for any person engaged in commerce, in the course thereof, knowingly to induce or receive a discrimination in price; declaring unfair, deceptive, and dis-

criminatory methods of production, manufacture, sale and distribution of articles, products, and commodities, service and facilities, within the State, unlawful; providing against "loss leader sales" as such and defining same; making it unlawful to sell any article, product, or commodity, or to give, offer to give, or advertise the intent to give, any article, product, or commodity when such practice may or tends to lessen, injure, destroy, prevent, hinder, or suppress competition; enumerates items to be included in estimating or computing "cost of doing business" and "overhead expense"; providing this Act shall not be construed to prohibit the meeting by any person of a legal competitive price; providing that the inhibition herein shall embrace any scheme, plan, or system of special, irregular, or confidential rebates, collateral contracts or any device which, in substance or fact, violates the spirit or intent of the Act; provides for the selection by those engaged in commerce to select their own customers in bona fide transactions and not in restraint of trade; provides for price changes in response to changing conditions affecting the market for, or the marketability of, goods and under such conditions not limited to deterioration of perishables, seasonal goods, goods sold under court process, sales made in good faith to discontinue business in the goods concerned, or in good faith to meet a legal competitive price; exempting co-operatives dealing with their own members, processors, or customers, in the distribution of net earnings of such co-operatives under certain conditions; providing the conditions under which articles, products, and commodities, purchased at forced, bankrupt, closeout, or other character of sale outside of the ordinary channels of trade may be re-sold or offered for re-sale and providing the manner in which articles, products, and commodities thus purchased for re-sale shall be segregated and advertised; providing in Section 8 and the subsections thereof under what conditions special, closeout, and reduction sales may be held not in violation of the Act; providing against secret or discriminatory payment or allowances of certain forms or manners of com-

pensation, either in addition to or exclusive of customary cash discounts, when the same compensation, in form or manner, is not extended to all purchasers purchasing upon like terms and conditions, making such practice unlawful and providing for penalty upon conviction for such act; providing that plaintiff may recover damages to the amount of three times the actual damages sustained by him, in addition to costs of suit and attorneys fees, against a defendant convicted for violation of this Act; providing for injunctive relief for plaintiff against a competitor under certain conditions; providing the plaintiff shall be conclusively presumed to have sustained damages equal to the monetary amount alleged upon proof that he has been discriminated against by the defendant; and allowing plaintiff to establish further damages, if any, as a result of such discrimination; providing that any contract, written or oral, expressed or implied, made by any person in violation of any of the provisions of this Act, is illegal and no recovery therefor shall be had; providing that the burden of rebutting the prima facie case in violation of any provision of this Act shall rest exclusively upon the defendant, but that defendant in rebutting may be permitted to show cause for his lower price provided such lower price was made in good faith to meet a legal low price of a competitor furnishing or offering to furnish similar advantages; providing for injunctive relief for plaintiffs, and for additional and the amount of additional damages accruing against a defendant; providing, in addition to specific and implied remedies hereunder, what officials of the State, upon their own complaint or upon the complaint of others, may prosecute in the name of the State of Texas under this Act; providing that if any person violates the provisions of this Act he shall be equally guilty with the person for whom or for which he acts; designating this Act as "the Anti-Discrimination Act" and setting forth inhibitions; provides a savings clause and declares the purposes of the Legislature in enacting the measure into law; provides for liberal construc-

tion of the Act under Section 16 hereof, and declaring an emergency."

The amendment was adopted.

By unanimous consent of the House, the caption of the bill was ordered amended to conform to all changes and with the body of the bill.

Question recurring on the engrossment of House Bill No. 322, yeas and nays were demanded.

The roll of the House was called, and the vote announced as follows: Yeas, 106; Nays, 3.

Mr. Stinson requested a verification of the vote.

Mr. Reader moved a call of the House, pending the verification of the above vote.

The motion prevailed.

(Speaker in the Chair.)

The roll of the "yeas" and "nays" was then called, and the verified vote resulted as follows:

Yeas—109

Adkins	Herzik
Alsup	Holland
Amos	Howard
Bates	Huddleston
Beckworth	Hull
Bell	James
Blankenship	Johnson of Ellis
Boethel	Johnson
Bond	of Tarrant
Boyer	Jones of Angelina
Bradbury	Jones of Atascosa
Broadfoot	Jones of Falls
Brown	Jones of Wise
Callan	Keefe
Cathey	Kelt
Cauthorn	Kenyon
Cleveland	Knetsch
Davis of Jasper	Langdon
Davison of Fisher	Lankford
Davisson	Lanning
of Eastland	Leath
England	Leonard
Farmer	Leyendecker
Felty	Little
Fielden	London
Fox	Mann
Fuchs	Mauritz
Gibson	Mays
Graves	McConnell
Hamilton	McCracken
Hanna	McFarland
Harbin	McKee
Hardin	Metcalf
Harris of Dallas	Moffett
Harris of Dickens	Monkhouse
Hartzog	Morris
Heflin	Morse

Newton	Skaggs
Nicholson	Smith of Hopkins
Patterson of Mills	Smith
Petsch	of Matagorda
Pope	Smith of Tarrant
Powell	Stocks
Prescott	Talbert
Ragsdale	Tarwater
Reader	Tennant
Reed of Bowie	Tennyson
Reed of Dallas	Thornberry
Riddle	Thornton
Roark	Vale
Ross	Waggoner
Russell	Walker
Rutta	Weldon
Settle	Westbrook
Sewell	Winfree
Simpson	Wood

Nays—5

Burton	Patterson
Cagle	of Travis
Hankamer	Stinson

Present—Not Voting

Mr. Speaker

Absent

Bradford	Jackson
Celaya	Oliver
Colquitt	Shell
Hoskins	

Absent—Excused

Alexander	Keith
Baker	Kern
Bridgers	King
Carssow	Loggins
Davis of Haskell	Lucas
Dean	McDonald
Deglandon	McKinney
Derden	Palmer
Dickison	Quinn
Dollins	Rhodes
Harper	Schuenemann
Harrell	Sharpe
Harris of Archer	Stevenson
Hyder	Worley

The Speaker announced that House Bill No. 322 was passed to engrossment.

HOUSE BILL NO. 322 ON THIRD READING

Mr. Morris moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that House Bill No. 322 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—107

Adkins	Lanning
Alsup	Leath
Amos	Leonard
Bates	Leyendecker
Beckworth	Little
Bell	London
Blankenship	Mann
Boethel	Mauritz
Bond	Mays
Boyer	McConnell
Bradbury	McCracken
Broadfoot	McFarland
Brown	McKee
Callan	Moffett
Cathy	Monkhouse
Cauthorn	Morris
Cleveland	Morse
Davis of Jasper	Newton
Davison of Fisher	Nicholson
Davisson	Patterson of Mills
of Eastland	Patterson
England	of Travis
Farmer	Petsch
Felty	Powell
Fielden	Prescott
Fox	Ragsdale
Fuchs	Reader
Gibson	Reed of Bowie
Graves	Reed of Dallas
Hamilton	Riddle
Hanna	Roark
Hardin	Ross
Harris of Dallas	Russell
Harris of Dickens	Rutta
Hartzog	Settle
Heflin	Sewell
Herzik	Simpson
Holland	Skaggs
Hoskins	Smith of Hopkins
Huddleston	Smith
Hull	of Matagorda
Jackson	Smith of Tarrant
James	Stocks
Johnson of Ellis	Talbert
Johnson	Tarwater
of Tarrant	Tennant
Jones of Angelina	Tennyson
Jones of Atascosa	Thornberry
Jones of Falls	Thornton
Jones of Wise	Waggoner
Keefe	Walker
Kelt	Weldon
Kenyon	Westbrook
Knetsch	Winfree
Langdon	Wood
Lankford	

Nays—3

Burton	Stinson
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Hankamer	
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Absent

Bradford	Celaya
Cagle	Colquitt

Harbin	Pope
Howard	Shell
Metcalfe	Vale
Oliver	

Absent—Excused

Alexander	Keith
Baker	Kern
Bridgers	King
Carssow	Loggins
Davis of Haskell	Lucas
Dean	McDonald
Deglandon	McKinney
Derden	Palmer
Dickison	Quinn
Dollins	Rhodes
Harper	Schuenemann
Harrell	Sharpe
Harris of Archer	Stevenson
Hyder	Worley

The Speaker then laid House Bill No. 322 before the House on third reading and final passage.

The bill was read third time, and was passed by the following vote:

Yeas—111

Adkins	Heflin
Alsup	Herzik
Amos	Holland
Bates	Hoskins
Beckworth	Howard
Bell	Huddleston
Blankenship	Hull
Boethel	Jackson
Bond	James
Boyer	Johnson of Ellis
Bradbury	Johnson
Broadfoot	of Tarrant
Brown	Jones of Angelina
Callan	Jones of Atascosa
Cathy	Jones of Falls
Cauthorn	Jones of Wise
Cleveland	Keefe
Davis of Jasper	Kelt
Davison of Fisher	Kenyon
Davisson	Knetsch
of Eastland	Langdon
England	Lankford
Farmer	Lanning
Felty	Leath
Fielden	Leonard
Fox	Leyendecker
Fuchs	Little
Gibson	London
Graves	Mann
Hamilton	Mauritz
Hanna	Mays
Harbin	McConnell
Hardin	McCracken
Harris of Dallas	McFarland
Harris of Dickens	McKee
Hartzog	Moffett

Monkhouse	Sewell
Morris	Simpson
Morse	Skaggs
Newton	Smith of Hopkins
Nicholson	Smith
Patterson of Mills	of Matagorda
Patterson	Smith of Tarrant
of Travis	Stocks
Petsch	Talbert
Pope	Tarwater
Powell	Tennant
Prescott	Tennyson
Ragsdale	Thornberry
Reader	Thornton
Reed of Bowie	Vale
Reed of Dallas	Waggoner
Riddle	Walker
Roark	Weldon
Ross	Westbrook
Russell	Winfree
Rutta	Wood
Settle	

Nays—3

Burton	Stinson
Hankamer	

Absent

Bradford	Metcalf
Cagle	Oliver
Celaya	Shell
Colquitt	

Absent—Excused

Alexander	Keith
Baker	Kern
Bridgers	King
Carssow	Loggins
Davis of Haskell	Lucas
Dean	McDonald
Deglandon	McKinney
Derden	Palmer
Dickison	Quinn
Dollins	Rhodes
Harper	Schuenemann
Harrell	Sharpe
Harris of Archer	Stevenson
Hyder	Worley

Mr. Morris moved to reconsider the vote by which House Bill No. 322 was passed, and to table the motion to reconsider.

The motion to table prevailed.

Mr. Mays moved that the House adjourn until 10:00 o'clock a. m., next Monday.

Question recurring on the motion to adjourn, yeas and nays were demanded.

The motion was lost by the following vote:

Yeas—43

Adkins	Boethel
Blankenship	Bradford

Broadfoot	Mauritz
Burton	Mays
Cagle	McConnell
Cathey	McCracken
Davisson	Monkhouse
of Eastland	Morris
England	Nicholson
Felty	Patterson
Hankamer	of Travis
Hardin	Pope
Harris of Dickens	Riddle
Hartzog	Ross
Hoskins	Settle
Hull	Sewell
Jackson	Shell
Jones of Falls	Smith
Kenyon	of Matagorda
Lanning	Smith of Tarrant
Leonard	Stinson
Leyendecker	Stocks
Mann	Walker

Nays—68

Alsup	Langdon
Bates	Lankford
Beckworth	Leath
Bell	London
Bond	McFarland
Bradbury	McKee
Brown	Moffett
Callan	Morse
Cauthorn	Newton
Cleveland	Patterson of Mills
Davis of Jasper	Petsch
Davison of Fisher	Powell
Fielden	Prescott
Fox	Ragsdale
Fuchs	Reader
Gibson	Reed of Bowie
Graves	Reed of Dallas
Hamilton	Roark
Hanna	Russell
Harbin	Rutta
Harris of Dallas	Simpson
Heflin	Skaggs
Herzik	Talbert
Holland	Tarwater
Huddleston	Tennant
James	Tennyson
Johnson of Ellis	Thornberry
Johnson	Thornton
of Tarrant	Vale
Jones of Angelina	Waggoner
Jones of Atascosa	Weldon
Jones of Wise	Westbrook
Keefe	Winfree
Kelt	Wood
Knetsch	

Absent

Amos	Howard
Boyer	Little
Celaya	Metcalf
Colquitt	Oliver
Farmer	Smith of Hopkins

Absent—Excused

Alexander	Keith
Baker	Kern
Bridgers	King
Carssow	Loggins
Davis of Haskell	Lucas
Dean	McDonald
Deglandon	McKinney
Derden	Palmer
Dickison	Quinn
Dollins	Rhodes
Harper	Schuenemann
Harrell	Sharpe
Harris of Archer	Stevenson
Hyder	Worley

Mr. Reed of Dallas moved a call of the House for the purpose of maintaining a quorum until 2:30 o'clock p. m., today, and the call was duly ordered.

On motion of Mr. Reader, the Sergeant-at-Arms was instructed to bring in all absent Members within the city who are not ill.

HOUSE BILL NO. 24 ON SECOND READING

(By unanimous consent)

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 24, A bill to be entitled "An Act reciting the existing conditions of the farm, grazing and different lands of the State of Texas; determining the consequences of soil erosion and depletion of the fertility of the soil; reciting appropriate corrective methods; declaring the policy of the Legislature; defining certain words and phrases used in the Act; creating the State Soil Conservation Board; providing for the employment of an executive officer and other agents and employees as may be required; providing for a treasurer of said Board who shall be under bond; providing for the qualifications, duties, and compensation of such employees as are required by said Board; fixing the location of the office of the State Soil Conservation Board; providing the powers and duties of the State Soil Conservation Board; providing an appropriation for the use of said State Soil Conservation Board; creating County Soil Conservation Districts; designating who shall serve as officers of the respective County Soil Conservation Districts; providing for a treasurer of each County Soil Conservation Dis-

trict and fixing the bond therefor; prescribing the powers and duties of the County Soil Conservation Districts and prescribing the procedure therefor; repealing House Bill No. Thirteen (13), Forty-second Legislature, Regular Session; repealing Senate Bill No. Two Hundred Twenty-seven (227), Forty-fourth Legislature, Regular Session; providing that if any portion of the Act be held unconstitutional the remaining portion shall not thereby be affected; providing, that in the event any provision of this Act be in conflict with the provision of any law already existing that this Act shall be controlling, and declaring an emergency."

The bill was read second time.

Mr. Fuchs offered the following committee amendment to the bill:

House Bill No. 24 shall be amended, by striking out all below the enacting clause and inserting in lieu thereof the following:

"Section I. Short Title. This Act may be known and cited as the State Soil Conservation Law.

Section II. Legislative Determination and Declaration of Policy: It is hereby declared, as a matter of Legislative determination:

A. The Condition—That the farm, grazing, and timber lands of the State of Texas are the basic assets of the State and that the preservation of these lands is necessary to protect and promote health, safety, and general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this State by wind and water; that the breaking of natural grass, plant and forest cover have interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being blown and washed out of fields and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion by wind and water speed up the removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil.

B. The Consequences—That the consequences of such soil erosion in the form of soil-blowing and soil-

washing are the silting and sedimentation of stream channels, reservoirs, ditches and harbors; the loss of fertile soil material in dust storms; the piling up of soil on lower slopes, and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor sub-soil material; sand, and gravel swept out of the hills; deterioration of soil and its fertility and declining acre yields of crops grown thereon despite development of scientific processes for increasing yields; loss of soil and water which causes destruction of food and cover for wildlife; a blowing and washing of soil into streams which silts over spawning beds, and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve, which causes water shortages, intensified periods of drought, and causes crop failures; and increase in the speed and volume of rainfall runoff causing severe and increasing floods which bring suffering, disease, and death; impoverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods from dust storms; and losses in navigation, municipal water supply, irrigation developments, farming and grazing.

C. The Appropriate Corrective Methods—That to conserve soil resources and control and prevent soil erosion, it is necessary that land-use practices contributing to soil wastage and soil erosion be discouraged and discontinued, and appropriate soil conserving land-use practices be adopted and carried out; that among the procedures necessary for wide-spread adoption, are the carrying on of engineering operations such as the construction of terraces, terrace outlets, checkdams, silt-trapping dams, low water dams, dikes, ponds, ditches, drainage structures, and the like; rodent control; the utilization of strip cropping, lister furrowing, contour furrowing; land irrigation, seeding, and planting of waste, sloping, abandoned or eroded lands to water conservation and erosion preventing plants, trees, and grasses; forestation and reforestation; rotation of crops; soil stabilization with trees, grasses, legumes and other thick growing, soil-holding crops; retardation of runoff by increasing

absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

D. Declaration of Policy.—It is hereby declared to be the policy of the Legislature to provide owners and operators of the farms, grazing and timber lands a means for the conservation of the water, soil, soil resources of this State, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers welfare of the people of this State, and thus to carry out the mandate expressed in Article XVI, Section 59a of the Constitution of Texas.

It is further declared as a matter of legislative intent and determination of policy that the agencies created; power conferred and the activities contemplated in this Act in the conservation of water, soil and soil resources, and in the reduction of public damage resulting from failure to conserve such natural resources, shall be supplementary and complementary to the work of various river and other authorities now established in this State and other State officers, agencies and districts engaged in closely related projects, and not duplicative of or conflicting.

Section III. Definitions.

Wherever used or referred to in this Act, unless a different meaning clearly appears in the context:

1. "County District" or "County Districts" means the County Soil Conservation Districts created under the terms of this Act and a governmental subdivision of this State with powers, duties and restrictions, as set forth herein.

2. "Co-operative District" or "Co-operative Districts" means the Soil Conservation Districts created from parts or all of more than one county in a watershed area, created under the terms of this Act and a governmental subdivision of this State with powers, duties and restrictions, as set forth herein.

3. "Directors" means the members of the County Soil Conservation Board of Directors of the County Soil Conservation Districts.

4. "Supervisors" mean the members of the governing body of a Co-operative District.

5. "State Board" or "Board" means the State Soil Conservation Board created under the terms of this Act with the powers and duties set forth herein.

6. "State" means the State of Texas.

7. "Agency of this State" includes the government of this State and any other subdivision, or instrumentality corporate or otherwise, of the government of this State.

8. "United States" or "Agencies of the United States" includes the United States of America and any agency or instrumentality corporate or otherwise of the United States of America.

Section IV. County Soil Conservation District.

A. County Soil Conservation Districts co-extensive with the boundaries of each County within this State are hereby created under and by virtue of Article XVI, Section 59a of the Constitution of Texas, except as hereinafter provided. The creation of such Districts is deemed essential to the accomplishment of the purposes of the above mentioned section of the Constitution, and the same shall be governmental agencies and bodies politic and corporate with the powers of government and with authority to exercise the rights, privileges, and functions, as are conferred by this Act. Such Districts shall bear the names of the County so designated. Co-operative Districts to be composed of parts or all of more than one County Soil Conservation District may be formed as hereinafter provided.

It is hereby further expressly provided that County Soil Conservation Districts shall not be created by this Act in counties which, on or before the effective date of this Act, have formed County Wind Erosion Conservation Districts under the provisions of House Bill No. 978, Acts of the Regular Session of the Forty-fourth Legislature. Such County Wind Erosion Conservation Districts, however, shall elect boards of directors with the same qualifications and exactly in every respect as provided for in this Act for the election of Boards of Directors for County Soil Conservation Districts, but these Boards of Directors in County Wind Erosion Conservation Districts shall perform no duties whatsoever except

to act as provided for in this Act in the selection of members of the State Soil Conservation Board. The State Soil Conservation Board shall have authority, working with the governing bodies of the County Wind Erosion Conservation Districts, to put in operation in said Wind Erosion Conservation Districts such provisions of this Act as are not in conflict with the provisions of House Bill No. 978, Acts of the Regular Session of the Forty-fourth Legislature; it being the purpose of the Legislature to in no respect repeal or change the provisions of said House Bill No. 978, but to supplement and add to its provisions such provisions of this Act as are not in conflict therewith.

B. The Commissioners' Court, within thirty (30) days after the creation of a County Soil Conservation District in the counties as herein provided, shall call a meeting or convention, of the legally qualified landowner, tax paying voters in said Commissioners' Precinct in the County, at a place and time for each Precinct Meeting designated by the Commissioners of the respective precincts, for the purpose of electing a member of the County Soil Conservation Board of Directors by a majority vote of the legally qualified landowner, tax paying voters present at the meeting. Each member so elected shall be a resident, land owning, legally qualified voter of the precinct from which he is elected, and shall be actively engaged in the business of farming and/or animal husbandry.

C. The Commissioners of the various Commissioners' Precincts shall act as Chairman of the Meeting in their respective precinct. If said Commissioner be absent, the legally-qualified, landowner, tax paying voters present shall elect an acting Chairman from among their number who shall preside at said meeting.

D: The name of the director so elected shall be certified to the County Judge of the County of such Precinct and the County Judge shall, within five (5) days, officially notify the persons so elected that they have been elected as members of such Board of Directors.

E. The County Soil Conservation Board of Directors shall select its own Chairman, who shall have authority to vote in case of a tie and shall be charged with the usual and customary

duties of a presiding officer. A majority of the Directors shall constitute a quorum and the concurrence of a majority in any matter within their jurisdiction shall be required for final determination.

F. Vacancies upon the County or Co-operative Districts Soil Conservation Board of Directors shall be filled for an unexpired term, or for a full term, by the same manner in which the retiring members were respectively selected.

G. Members of a County or Co-operative District Soil Conservation Board of Directors may receive compensation for their services on the Board, not to exceed Four (\$4.00) Dollars for each day they shall be in actual attendance upon the duties of the office within the county not to exceed twenty days (20) in any one calendar year and not to exceed Four (\$4.00) Dollars per day and necessary expenses incurred for services other than within the County, except by approval of the State Board.

H. The first County Soil Conservation Board of Directors shall be elected to serve, as follows:

(1) Precincts One (1) and Three (3) shall each elect a Board member to serve on the County Soil Conservation Board of Directors for a period ending the First Tuesday in January, 1939, or until their successors are elected and have qualified.

(2). Precincts Two (2) and Four (4) shall each elect a Board member to serve on the County Soil Conservation Board of Directors for a period ending the First Tuesday in January, 1940, or until their successors are elected and have qualified. Thereafter, each Board member shall be elected to serve for a term of two years.

I. The County Treasurer shall serve as Treasurer of the County District and the County Clerk as clerk of the County District. Supervisors of a Co-operative District shall appoint a Co-operative District Secretary-Treasurer, subject to approval of the State Board, to whom shall be paid all funds arising from within such district outside of incorporated cities and towns, or allotted to the Co-operative District by State, Federal or other sources. The Treasurer of a County District or Secretary-Treasurer of a Co-operative District shall provide a good and sufficient bond to be ap-

proved by the State Board and the premium for which shall be paid by the State Board. The County Treasurer or Co-operative District Secretary-Treasurer shall have the care and custody of all funds, obligations and securities of the District and shall disburse and dispose of same in compliance with the orders of the governing body. The County Clerk or the Co-operative District Secretary-Treasurer shall keep an accurate record of all orders, minutes and resolutions of the governing body and shall countersign all vouchers and documents and perform such other acts as may be directed by the governing body. The duties herein imposed upon the County Clerk and the County Treasurer shall be ex-officio duties, under and by virtue of their tenure of office as county officials, and they shall be liable under their official and special bonds as herein provided for the faithful performance of the duties herein set out.

J. The Directors may employ such agents and employees as it may require and shall determine their duties, qualifications and compensations, with the approval of the State Board.

Section V. State Soil Conservation Board.

A. There is hereby established to serve as an agency of the State and to perform the functions conferred on it in this Act, the State Soil Conservation Board. The Board shall consist of a Chairman and four members. The membership of the Board shall be selected as follows; The State of Texas is hereby divided into five (5) districts only for the purpose of selecting five (5) members of the personnel of the State Soil Conservation Board. These five State Districts shall be composed as follows:

State District No. 1. Comprising 51 counties: Dallam, Dawson, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Hardeman, Cochran, Hockley, Lubbock, Crosby, Dickens, King, Yoakum, Terry, Lynn, Garza, Kent, Stonewall, Gaines, Borden, Scurry, Fisher.

State District No. 2: Comprising 51 counties: Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Runnels,

Coke, Sterling, Glasscock, Midland, Ector, Winkler, Loving, Reeves, Culbertson, Hudspeth, El Paso, Jeff Davis, Presidio, Brewster, Pecos, Terrell, Ward, Crane, Upton, Reagan, Irion, Tom Green, Concho, McCulloch, San Saba, Mason, Llano, Blanco, Gillespie, Crockett, Schleicher, Menard, Sutton, Kimble, Val Verde, Edwards, Real, Kerr, Kendall, Bandera, Uvalde, Medina, Kinney, Maverick.

State District No. 3. Comprising 50 counties: Burleson, Lee, Bastrop, Travis, Hays, Comal, Guadalupe, Caldwell, Fayette, Washington, Austin, Colorado, Lavaca, Gonzales, Wilson, Bexar, De Witt, Jackson, Wharton, Ft. Bend, Brazoria, Matagorda, Calhoun, Refugio, Bee, Karnes, Live Oak, Atascosa, McMullen, LaSalle, Frio, Duval, Dimmit, Webb, Zapata, Jim Hogg, Starr, Brooks, Hidalgo, Cameron, Willacy, Kenedy, Kleberg, Nueces, San Patricio, Aransas, Jim Wells, Zavala, Goliad, Victoria.

State District No. 4. Comprising 51 counties: Lamar, Red River, Bowie, Delta, Hopkins, Franklin, Titus, Morris, Cass, Marion, Camp, Upshur, Wood, Raines, Van Zandt, Smith, Gregg, Harrison, Henderson, Cherokee, Rusk, Panola, Shelby, Nacogdoches, Anderson, Freestone, Leon, Robertson, Brazos, Madison, Grimes, Waller, Houston, Walker, Trinity, Angelina, San Augustine, Sabine, Newton, Jasper, Tyler, Polk, San Jacinto, Montgomery, Harris, Liberty, Hardin, Orange, Jefferson, Chambers, Galveston.

State District No. 5. Comprising 51 counties: Wilbarger, Wichita, Clay, Montague, Cooke, Grayson, Fannin, Hunt, Collin, Denton, Wise, Jack, Archer, Taylor, Knox, Haskell, Stephens, Throckmorton, Young, Jones Shackelford, Palo Pinto, Rockwall, Kaufman, Ellis, Parker, Tarrant, Dallas, Johnson, Hood, Somervell, Erath, Eastland, Callahan, Coleman, Brown, Comanche, Mills, Hamilton, Bosque, Hill, Navarro, Limestone, McLennan, Falls, Milam, Bell, Williamson, Burnet, Lampasas, Coryell.

B. The County Soil Conservation Board of Directors shall elect one of their members as a delegate to attend the State District Conservation Conventions shall be held within the district, at a time and place designated by the Governor of the State of Texas, said date to be not later than forty-five (45) days after the effective date of this Act, and each district convention shall elect, by a majority vote, a member of the State Soil Conservation Board, a quorum shall be a majority of all County delegates elected to the District Convention and shall be required to act on any matter. Each member of the State Soil Conservation Board so elected, shall be a resident, land owning, legally qualified voter of the district from which he is elected and actively engaged in the business of farming and/or animal husbandry.

Districts One (1), Three (3) and Five (5) shall each elect a Board member to serve on the State Soil Conservation Board for a period ending the First Tuesday in February, 1939, or until their successors are elected and have qualified.

Districts Two (2) and Four (4) shall each elect a Board Member to serve on the Soil Conservation Board for a period ending the First Tuesday in February, 1940, or until their successors are elected and have qualified. Thereafter, Board members shall be elected for a term of two years or until their successors are elected and have qualified and the districts having members on the State Soil Conservation Board, whose terms expire, shall meet on the First Tuesday in February of each year at a place within the Districts designated by the State Board and elect their successors to the State Soil Conservation Board.

C. The five (5) members so elected under Sections A and B, next above, shall constitute the State Soil Conservation Board. The State Soil Conservation Board shall meet at a time designated by the Governor of Texas, within ten (10) days following election of members at a place also designated by the Governor of Texas, and organize and shall thereafter meet from time to time when necessary. Each member of the State Soil Conservation Board shall take the State Constitutional Oath of Office, and said State Soil Conservation Board shall designate one of their members to serve as Chairman, and may at any time change the designation.

D. Vacancies upon such Board shall be filled for an unexpired term or for a full term, by the same manner in which the retiring members were respectively elected. Elective members of the Board may receive compensation for their services on

the Board, not to exceed the sum of \$10.00 per diem for each day of actual service rendered, but each member shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties as members of the Board.

E. The Director of Extension Service and the Director of Experiment Station of Agriculture and Mechanical College of the State of Texas, the State Reclamation Engineer and Commissioner of Agriculture of the State of Texas, are hereby constituted an Advisory Board with whom the State Conservation Board may advise in the setting up of all programs and plans and in the carrying out of the provisions of this Act.

F. Three members of the Board shall constitute a quorum and a majority vote of a quorum present shall be required for the determination of any issue or proposition that may come before the Board. The Board shall keep a complete and accurate record of all its official actions, hold such public hearings at such time and at such place or places within the State as may be determined by the Board; and shall promulgate such rules and regulations as may be necessary for the performance of the functions of said Board under the provisions of this Act.

G. The Board may employ such agents and employees as it may require and shall determine their qualifications, duties and compensation.

H. The State Treasurer's Official Bond shall be liable for all monies and securities of the State Board, and he shall have the care and custody of all funds and securities of the State Board, and shall disburse same in compliance with the orders of the Board, in the manner as is now provided by law. Any funds coming into the hands of the Treasurer of this State, as herein after provided, shall be by him credited to a special fund to be known as the State Soil Conservation Fund and the monies hereafter deposited or credited in such fund are hereby appropriated to the use and benefit of the State Soil Conservation Board, as may be by said Board used in compliance with this Act. The Board shall provide and furnish an annual audit by a Certified Public Accountant and a report to the Governor of the State. The Board shall maintain a Head Office within the State at some place

to be determined by the Board. Suitable office space shall be obtained, equipped and furnished out of funds provided in the emergency appropriation herein provided.

Section VI. Powers and Duties of County Conservation Districts.

A. Each County or Co-operative Soil Conservation District created under this Act shall constitute a governmental subdivision of this State and a body corporate and politic exercising public powers, and such District and the Directors or Supervisors thereof, as the governing body, shall have the following powers in addition to those granted in other sections of this Act, or which may hereafter be granted by the Legislature of this State.

1. To sue and be sued in the name of the District; to have a corporate seal which shall be judicially noticed; to make and execute contracts and other instruments or agreements necessary or convenient to exercise its powers; to make and, from time to time, amend and repeal, change, abrogate or modify rules and regulations not inconsistent with this Act to carry into effect its purposes and powers acting in cooperation with the State Soil Conservation Board.

2. To assist the land owners in carrying out preventive and control measures within the District including, but not limited, to engineering operations, methods of cultivation, the growing of vegetation and such other measures as are enumerated in Section II, Subdivision C, of this Act, and in constructing, improving, and maintaining such structures as may be necessary to carry out the purposes of this Act, by making available, on such terms as the District may prescribe, to the landowners within the District, necessary labor and materials and the use of agricultural and engineering machinery and equipment; provided, however, that no District shall be permitted to charge a rate per hour for labor and machinery in excess of a maximum rate per hour approved by the State Soil Conservation Board. The income from the hire of machinery shall be kept in a District revolving fund to be used exclusively for the maintenance and replacement of such machinery.

3. To accept donations, gifts, grants and contributions, services,

technical and otherwise, materials or otherwise from the State Soil Conservation Board and other governmental agencies, State and Federal, and to use and expend such monies, services, materials and other contributions in carrying on its operations either upon an independent County or Co-operative District Soil Conservation program, or acting in cooperation with the State Soil Conservation Board and another or other Districts under mutual agreements as may be determined upon and as herein provided.

B. It is hereby expressly provided that the County or Cooperative District Soil Conservation Boards may enter into such contracts and agreements with the County Commissioners of any County for the use of road machinery, and/or County equipment that may be available for use in soil Conservation work.

D. The Directors or Supervisors may adopt land-use regulations under the provisions of this Section and these may include:

1. Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures;

2. Provisions requiring observance of particular methods of cultivation including contour cultivating; contour furrowing; lister furrowing; sowing and planting of lands to water conserving and erosion-preventing plants, trees and grasses; forestation, and reforestation;

3. Specifications of cropping programs and tillage practices to be observed;

4. Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried out;

5. Provisions for such other means, measures, operations, and programs as may assist in the conservation of soil resources and prevent or control soil erosion in the district, having due regard to the Legislative findings set forth in Section II of this Act.

E. The regulations shall be uniform throughout the territory comprised within the district, except that the Directors or Supervisors may classify the lands within the district with reference to such factors as soil

type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this Section shall be printed and made available to all occupiers of lands lying within the district.

Section VII. Powers and Duties of the State Soil Conservation Board.

In addition to those duties and powers heretofore mentioned, the State Soil Conservation Board shall have the following duties and powers:

1. To offer such assistance as may be appropriate to the officials of the Soil Conservation Districts, organized as herein provided in the carrying out of any of their powers and programs incident to or promulgated by the Soil Conservation Districts.

2. To assemble, analyze, interpret and disseminate information concerning Soil Erosion practices, flood control and water conservation and all other purposes of this Act, as herein provided.

3. To formulate and develop a conservation program throughout the State, as is set forth in Section II, Subsection C, of this Act. Whenever a program of regional water-shed nature shall arise involving major water ways and control of flood waters and the protection of low lands adjacent to such stream beds, then in that event the Soil Conservation District, or Districts, involved and located upon, or adjacent to, such water-shed, may, in cooperation with the State Soil Conservation Board, develop a program for the control of such flood waters and by mutual agreement between the State Soil Conservation Board and the Soil Conservation District or Districts, concerned, may enter into the performance of such program. The participation in a project designed for the control of flood waters in such water shed may be entered upon by agreement determining the manner of construction and establishing suitable provisions for the maintenance and operation of such control features, and allocating proportional costs; all to be determined by the joint agreement of the State Soil Conservation Board and the Soil Conservation District, or Districts, participating.

4. The State Soil Conservation Board shall have the power and the authority to receive from the Government of the United States, grants of funds, and technical and other services for the augmentation of State Funds and technical and other services in carrying out agreements with a Soil Conservation District, or Districts, in the furtherance of the provisions of this Act; and may as well receive monies and/or technical and/or other services through, or from, the Extension Service of the Agricultural and Mechanical College of Texas, or from any County, State, or Federal Agency, or private individual. The State Soil Conservation Board shall have full power and authority to appropriate and distribute, to a Soil Conservation District, or Districts or among the several Soil Conservation Districts, under suitable, equitable, and appropriate regulations, such funds, technical and other services, as may be made available under the provisions of this Act, either by State or Federal Appropriation, or both, provided for the furtherance of the Soil Conservation, water conservation programs and projects within this State. Nothing herein contained shall prevent a Soil Conservation District, or Districts, from dealing with the Federal Government, the State of Texas, or the Agricultural and Mechanical College of Texas, and receiving grants of funds, and/or technical and other services.

Section VIII. Funds.

1. In order to provide a fund for the necessary expenses and operations of the State Soil Conservation Board, there is hereby appropriated the sum of Twenty-five Thousand (\$25,000.00) Dollars available at once for the use of the Board throughout the remainder of the current biennium, ending September 1, 1937; and there is further hereby appropriated for the use of the State Soil Conservation Board for the biennium beginning September 1, 1937, and ending September 1, 1939, the sum of Fifty Thousand (\$50,000.00) Dollars both of these amounts to be appropriated out of funds not heretofore appropriated from the general fund of the State Treasury to be disbursed by order of the State Soil Conservation Board and the Treasurer of this State. Following September 1, 1939, the activities of the State Soil Conservation Board shall be financed from the tax monies

diverted, as hereinafter set forth, and from the general fund.

2. For a period of ten years beginning with the taxable year 1937, or such remaining part of said ten year period after the effective date of this Act, there is hereby diverted and granted by the State of Texas to each respective County Soil Conservation District created under the provisions of this Act, and to each County Wind Erosion Soil Conservation District created under the provisions of House Bill No. 978, Acts of the Regular Session of the Forty-fourth Legislature, the funds derived from the legal assessment, levy and collection of the State ad valorem taxes for general revenue purposes only, (this excludes the levy for school purposes and Confederate pensions), upon the property and from the persons in each respective County not heretofore diverted or granted by the State of Texas to any County, City, District, or other political subdivision of this State, accruing from the application of ten (10) cents of the Constitutional ad valorem tax rate. The taxes hereby diverted shall be legally assessed, levied and collected as now provided by law, except that the Assessor and Collector of taxes in each respective County shall forward his reports to the Comptroller of Public Accounts, as now provided by law, and shall pay over to the Treasurer of the County Soil Conservation District all monies collected by him at the end of each month and during the period covered by this diversion, except such amounts as are now allowed by law for assessing and collecting the same and shall forward a duplicate copy of the receipt given him by the County Treasurer for said money to the Comptroller of Public Accounts.

3. Funds arising from the diversion of the State ad valorem taxes, as set forth in the next preceding paragraph, shall be apportioned as follows:

(1). Funds arising from property taxes lying outside of incorporated cities and towns shall be used for soil conservation purposes as herein provided upon lands lying outside of incorporated cities and towns in the District, and in furtherance of the purposes of this Act, provided however, that at any time an entire county is included within the boundaries of a duly organized Co-operative District

the said funds shall be paid by the County Treasurer to the Secretary-Treasurer of the Co-operative District to be used for soil conservation purposes as herein provided upon lands lying in such Co-operative District and in furtherance of the purposes of this Act; provided, further, that in the event a part and/or parts of a county less than the whole thereof shall be included within the boundaries of a Co-operative District, then and in that event it is expressly provided that the State Board shall, within a reasonable time after the organization of such district, determine the percentage of such funds that shall be paid by the County Treasurer, and upon the receipt of such certificate it shall be the duty of the County Treasurer to thereafter pay to such Secretary-Treasurer of the Co-operative District such proportionate part of the sums received by him. In determining the percentage to be paid, the State Board shall consider the relative needs of the various districts, and shall have authority at any time to change such percentage, but in no event shall the State Board apportion a less percentage to the Co-operative District than the total acreage of land situated in the district and a particular county bears to the total acreage of the county.

(2). All funds arising from the diversion of the State ad valorem taxes in County Wind Erosion Conservation Districts created under the provisions of House Bill No. 978, Acts of the Regular Session of the Forty-fourth Legislature, as set forth in the next preceding paragraph, shall be used in said County Wind Erosion Conservation Districts for the purposes and in the manner provided for in said House Bill No. 978, Acts of the Regular Session of the Forty-fourth Legislature.

(3). All funds arising from the property taxed, lying within the territorial limits of incorporated cities and towns, shall be remitted to the State Treasurer, and by him placed in a special fund for the use of the State Soil Conservation Board. Such funds shall be expended by the State Soil Conservation Board, for the following purposes, to-wit:

(a). To defray the administrative expenses of the State Soil Conservation Board, after September 1, 1939.

(b). For the equalization of funds among Districts, including those coun-

ties wherein ad valorem taxes have heretofore been diverted, to the extent of reimbursing said counties so that the fund for the furtherance of the purposes of this Act will be equal to the diversion of all State taxes outside of incorporated cities or towns within the county but not greater than otherwise would have been had there been no previous diversion of taxes therein. Provided, however, that no Conservation District wherein improvements have heretofore been constructed, or are now under construction, or that may hereafter be constructed within the territorial limits of such Conservation District, out of funds heretofore diverted, shall be eligible to receive any funds whatsoever from this State Soil Conservation Board equalization fund until after all other Districts entitled to refunds hereafter shall have received such refunds from the Equalization Fund.

(c). The remainder shall be used in furtherance of the purposes of this Act, as hereinbefore provided.

3. The expenditure and disbursement of such funds shall be in accordance with the rules and regulations promulgated and established by the Co-operative District, Supervisors, or the County Board of Directors as the case may be, and the State Soil Conservation Board, acting singly or in a co-operative program jointly in the furtherance of the purposes of this Act.

4. No debt or obligation shall ever be created by any County or Co-operative Soil Conservation District organized under the provisions of this Act that cannot be reasonably amortized and retired within a period of two (2) years out of funds accruing and to accrue from the funds diverted and granted under the provisions of this Act unless specifically authorized by the State Board.

Section IX. Co-operative Districts.

At any time the land-owners within a watershed area comprising parts or all of more than one county desire the formation of a co-operative district, a petition may be presented to the State Board outlining the general boundaries of the proposed co-operative district requesting that an election be ordered for the purpose of determining whether or not such a co-operative district is feasible and practicable. If such petition bear the

signatures of a majority of the Directors representing the areas involved, or the signatures of twenty per cent (20%) of the resident land owners within the proposed Co-operative District, the State Board shall duly define the boundaries for such district and order an election in dealing with a common problem arising under the provisions of this Act.

a. Such petition shall set forth:

1. The proposed name of said Co-operative District.

2. That there is need for coordinating soil and water conservation programs in the natural watershed area described, and that an election be ordered by the State Board on the question of the creation of a Co-operative District, and that the State Board determine that such a District be created.

Where more than one petition is filed covering parts of the same watershed territory, the State Board may consolidate all or any such petitions.

b. Within thirty (30) days after such a petition has been filed with the State Board, it shall order an election to be held in the territory to be included in the proposed Co-operative District, and to cause due notice of the election to be given. Resident owners of land which has been duly rendered for taxation, and only such persons, shall be entitled to vote at such election. Each voter favoring the creation of such district shall have written or printed on his ballot "For the creation of _____ Co-operative Soil and Water Conservation District." Each voter who opposes the creation of such district shall have written or printed on his ballot "Against the creation of _____ Co-operative Soil and Water Conservation District."

c. The State Board shall pay all expenses for the issuance of such notices and the conduct of such elections. It shall issue appropriate regulations governing the conduct of such elections, including the designation of voting boxes, and the procedure for holding and declaring such election shall be in substantial compliance with the requirements for general election in this State.

d. The State Board shall publish in the district only, the result of such election and shall thereafter consider and determine whether the operation

of the Co-operative District within the defined boundaries is administratively feasible and practicable. If the State Board shall determine that the operation of such district is feasible and practicable it shall record such determination and shall proceed with the organization of the District as hereinafter provided. The State Board shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a two-thirds ($\frac{2}{3}$) majority of the votes cast in the election upon the proposition of creation of the district shall have been cast in favor of its creation.

e. If the State Board shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, such Co-operative District shall be a governmental subdivision of this State and a public body corporate and politic, upon the taking of the following proceedings:

The State Board shall appoint two (2) Supervisors from among the County Directors within the district. The Supervisors so appointed shall present to the Secretary of State an application signed and sworn to by them, which shall set forth (and such application need contain no detail other than the mere recitals) the creation of the said Co-operative District by the State Soil Conservation Board in accordance with the terms of this Act, which application shall be certified by the State Board. The Secretary of State shall make and issue to the said Supervisors a certificate, under the Seal of State, of the due organization of the said Co-operative District.

f. Within Fifteen (15) days after the issuance by the Secretary of State of a certificate or organization of a Co-operative District, the County Directors of the territory included in the boundaries of said district shall hold a meeting within the district at a place and time designated by the State Board, for the purpose of electing three (3) Supervisors from among their number who, with the two (2) Supervisors appointed by the State Board, shall constitute the governing body of the district.

g. The two (2) Supervisors first appointed by the State Board shall serve for a term of one (1) year and

thereafter two (2) Supervisors shall be appointed for a full term of two (2) years or until their successors shall have qualified.

h. The three (3) Supervisors elected as hereinabove provided shall serve for a term of two (2) years from the date of election and thereafter three (3) elective Supervisors shall be elected every two (2) years as hereinabove provided or until their successors have been elected and qualified.

i. The County Directors shall have no authority, jurisdiction, or power over any area that may become a part of a Co-operative Soil Conservation District; provided, however, that the County Directors shall act as provided for in this Act in the selection of members of the State Soil Conservation Board and the selection of Supervisors of Co-operative Districts.

j. Vacancies on the Board of Supervisors of a Co-operative District shall be filled in the same manner in which the retiring supervisors shall respectively, have been selected, and for the unexpired terms of the retiring Supervisors.

k. The Supervisors shall designate their Chairman, and may at any time change such designation. A majority of the Supervisors shall constitute a quorum and the concurrence of a majority thereof in any matter within their duties shall be required for its determination. Supervisors shall receive compensation for their services not to exceed Five (\$5.00) Dollars for each day they shall be in actual attendance upon the duties of the office; additional allowance shall be made for traveling or subsistence expenses.

l. The Supervisors may employ an administrative officer and technical experts, subject to approval of the State Board, and such other officers, agents and employees as they may require, and shall determine their qualifications, duties, compensation, and term of employment.

The Supervisor shall provide for the execution of surety bonds for all district officers and employees who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for a biennial audit by a Certified Public Ac-

countant of the accounts of receipts and disbursements, or at any time such an audit may be ordered by the State Board at the expense of the State Board. Any Supervisor may be removed by the State, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

Such programs and projects shall be handled by mutual agreements entered into by and between the Soil Conservation District or Districts, that may be mutually interested in connection therewith, with the approval of the State Board.

Section X. Discontinuance of Co-operative Districts.

At any time after five (5) years after the organization of a Co-operative District under the provisions of this Act, Twenty (20%) per cent of the resident owners of land lying within the boundaries of such district may file a petition with the State Board praying that the operation of the district be terminated and the existence of the district discontinued. The State Board may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such a petition has been received by the State Board it shall give due notice of the holding of an election. All resident owners of lands lying within the district, and only such persons, shall be entitled to vote at such election. Each voter favoring the termination of such district shall have written or printed on his Ballot "For the termination of _____ Co-operative Soil and Water Conservation District," and each voter who opposes the termination of such district shall have written or printed on his ballot "Against the termination of _____ Co-operative Soil and Water Conservation District." No informalities in the conduct of such election or in any matters relating the veto shall invalidate said election or the results thereof if due notice thereof shall have been given and said election shall have been fairly conducted. The procedure for holding and declaring the result of such election shall be in substantial compliance with the requirements of the general elections in this State.

Section XI. Inconsistency with Other Acts.

A. Senate Bill No. 227, passed

by the Regular Session of the Forty-fourth Legislature, page 504, Regular Session, is hereby repealed, effective the day the State Soil Conservation Board is legally organized under the provisions of this Act.

B. This Act shall not in anywise repeal House Bill No. 13, Acts of the Forty-second Legislature, Regular Session, but the same is, hereby expressly preserved in accordance with the terms thereof.

C. This Act is not intended to affect, impair, or impinge upon the provisions of House Bill No. 978, Acts of the Regular Session of the Forty-fourth Legislature, under which Wind Erosion Soil Conservation Districts have been created, or may hereafter be created, but the same is expressly preserved in accordance with the terms thereof, and said Act is in no manner impinged upon, changed, modified or repealed and shall stand unimpaired by any of the terms hereof. All privileges and emoluments herein granted and conferred shall be complementary of and supplementary to such Wind Erosion Conservation Districts heretofore created and now existing, or hereafter created, under the terms of said Act. Such districts may receive the tax monies diverted hereunder for the corporate purpose of such Wind Erosion Districts.

D. This Act shall not in anywise affect, impair or impinge upon the rights, powers and functions of Water Improvement Districts, Conservation and Reclamation Districts, Water Conservation Districts, Flood Control Districts, River Authority Districts, Water Control and Improvement Districts, Irrigation Districts, Drainage Districts, Levee Districts, and any other form of Irrigation Districts permitted under the laws of this State which have been created or may hereafter be created, but the same are expressly preserved in accordance with the terms of the Act or Acts under which such Districts were created and such Act or Acts are in no manner impinged upon, changed, modified or repealed and shall stand unimpaired by any of the terms hereof.

E. It is hereby further declared as a matter of legislative intent and determination of policy that the agencies heretofore created, power conferred and the activities contemplated in this Act, in the conservation of water, soil and soil resources, and

in the reduction of public damage resulting from failure to conserve such natural resources shall be supplementary and complementary to the work of other State Officers, agencies and districts engaged in closely related and especially is intended to be supplementary and complementary to the work of the various river authorities now established in this State by special Acts of the Legislature, and this Act shall in no wise impinge upon, nor repeal, any of the provisions of said special Acts creating and constituting so called river authorities within this State.

Section XII. Separability Clause.

If any Article, Section, Subsection, Sentence, Clause, or Phrase of this Act is for any reason held to be Unconstitutional, such decision shall not affect the validity of the remaining portion of this Act.

Section XIII. Emergency Clause.

The fact that the area of this State is suffering from erosion, and the further fact that the serious consequences of Soil Erosion can be arrested to a large degree by intelligent treatment of the affected areas, which are now deteriorating, creates an emergency and an imperative public necessity, demanding a suspension of the Constitutional Rule requiring bills to be read on three several days in each House, and said Rule is hereby suspended, and this Act shall take effect from and after its passage, and it is so enacted."

FUCHS,
RAGSDALE,
TARWATER.

Mr. Fuchs offered the following substitute for the committee amendment:

Amend House Bill No. 24, by striking out all below the enacting clause and inserting in lieu thereof the following:

Section 1. Short Title.

This Act may be known and cited as the State Soil Conservation Law.

Section 2. Legislative Determination, and Declaration of Policy.

It is hereby declared, as a matter of Legislative determination—

A. The condition.—That the farm and grazing lands of The State of Texas are among the basic assets of the State and that the preservation of these lands is necessary to protect and promote the health, safety, and

general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this State by wind and water; that the breaking of natural grass, plant, and forest cover have interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being blown and washed out of fields and pastures; that there has been an accelerated washing of sloping fields, that these processes of erosion by wind and water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by any occupier of land to conserve the soil and control erosion upon such land causes a washing and blowing of soil and water from such lands onto other lands and makes the conservation of soil and control of erosion on such other lands difficult or impossible.

B. The consequences.—That the consequences of such soil erosion in the form of soil-blowing and soil-washing are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; the loss of fertile soil material in dust storms; the piling up of soil on lower slopes, and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops grown thereon, and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water which causes destruction of food and cover for wildlife; a blowing and washing of soil into streams which silts over spawning beds, and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve, which causes water shortages, intensifies periods of drought, and causes crop failures; an increase in the speed and volume of rainfall run-off, causing severe and increasing floods, which brings suffering, disease, and death; impoverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, farm build-

ings, and other property from floods and from dust storms; and losses in navigation, hydro-electric power, municipal water supply, irrigation developments, farming and grazing.

C. The appropriate corrective methods.—That to conserve soil resources and control and prevent soil erosion, it is necessary that landuse practices contributing to soil wastage and soil erosion may be discouraged and discontinued, and appropriate soil-conserving land-use practices be adopted and carried out; that among the procedures necessary for widespread adoption, are the carrying on of engineering operations such as the construction of terraces, terrace outlets, check-dams, dikes, ponds, ditches, and the like; the utilization of strip cropping, lister furrowing, contour cultivating, and contour furrowing; land irrigation; seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees, and grasses; forestation and reforestation; rotation of crops; soil stabilization with trees, grasses, legumes, and other thick-growing, soil holding crops; retardation of runoff by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

D. Declaration of policy.—It is hereby declared to be the policy of the Legislature to provide for the conservation of soil and soil resources of this State, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this State, and thus to carry out the mandate expressed in Article XVI, Section 59a, of the Constitution of Texas.

It is further declared as a matter of Legislative intent and determination of policy that the agencies created, powers conferred and the activities contemplated in this Act for the conservation of soil and water resources and for the reduction of public damage resulting from failure to conserve such natural resources, shall be supplementary and complementary to the work of various river and

other authorities now established in this State and to other State officers, agencies, and districts engaged in closely related projects, and shall not be duplicative thereof or conflicting therewith.

Section 3. Definitions.

Wherever used or referred to in this Act, unless a different meaning clearly appears from the context:

(1) "District" or "soil conservation district" means a governmental subdivision of this State, and a public body corporate and politic, organized in accordance with the provisions of this Act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(2) "State Districts" means one of the five districts established as provided in Section 4, Subsection A of this Act.

(3) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this Act.

(4) "Board" or "State soil conservation board" means the agency created in Section 4, Subsections C and D, of this Act.

(5) "County Soil Conservation Advisory Committee" means the committee elected in each county of the State, as provided in Section 4, Subsection B, of this Act.

(6) "Petition" means a petition filed under the provisions of Subsection A of Section 5 of this Act for the creation of a district.

(7) "Nominating petition" means a petition filed under the provisions of Section 6 of this Act to nominate candidates for the office of supervisor of a soil conservation district.

(8) "State" means the State of Texas.

(9) "Agency of this State" includes the government of this State and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this State.

(10) "United States" or "agencies of the United States" includes the United States of America, the Soil Conservation Service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(11) "Government" or "Governmental" includes the government of

this State, the Government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

(12) "Land owner" or "owner of land lying outside of incorporated cities and towns" includes any person who holds legal or equitable title to any lands lying within a soil conservation district organized under the provisions of this Act and who is a duly qualified voter within such district.

(13) "Due notice" means notice published at least twice, with an interval of at least 7 days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs, generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

Section 4. State Soil Conservation Board.

A. There is hereby established to serve as an agency of the State and to perform the functions conferred on it in this Act, the State Soil Conservation Board. The Board shall consist of five members. The following shall serve, ex-officio, without vote, as members of the Board: The president of Agricultural and Mechanical College of Texas, the president of Texas Technological College, the Director of Vocational Agriculture of Texas, the State Commissioner of Agriculture and the State Coordinator of Soil Conservation. The five elective members of the Board shall be selected as follows: The State of Texas is hereby divided into five (5) State Districts for the purpose of selecting five (5) members of the State Soil Conservation Board. These five State Districts shall be composed as follows:

State District No. 1, comprising 51 counties:—Dallam, Dawson, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall,

Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Hardeman, Cochran, Hockley, Lubbock, Crosby, Dickens, King, Yoakum, Terry, Lynn, Garza, Kent, Stonewall, Gaines, Borden, Scurry, Fischer, Foard.

State District No. 2, comprising 51 counties:—Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Runnels, Coke, Sterling, Glasscock, Midland, Ector, Winkler, Loving, Reeves, Culbertson, Hudspeth, El Paso, Jeff Davis, Presidio, Brewster, Pecos, Terrell, Ward, Crane, Upton, Reagan, Irion, Tom Green, Concho, McCulloch, San Saba, Mason, Llano, Blanco, Gillespie, Crockett, Schleicher, Menard, Sutton, Kimble, Val Verde, Edwards, Real, Kerr, Kendall, Bandera, Uvalde, Medina, Kinney, Maverick.

State District No. 3, comprising 50 counties:—Burleson, Lee, Bastrop, Travis, Hays, Comal, Guadalupe, Caldwell, Fayette, Washington, Austin, Colorado, Lavaca, Gonzales, Wilson, Bexar, DeWitt, Jackson, Wharton, Ft. Bend, Brazoria, Matagorda, Calhoun, Refugio, Bee, Karnes, Live Oak, Atascosa, McMullen, LaSalle, Frio, Duval, Dimmit, Webb, Zapata, Jim Hogg, Starr, Brooke, Hidalgo, Cameron, Willacy, Kennedy, Kleberg, Nueces, San Patricio, Aransas, Jim Wells, Zavala, Goliad, Victoria.

State District No. 4, comprising 51 counties:—Lamar, Red River, Bowie, Delta, Hopkins, Franklin, Titus, Morris, Cass, Marion, Camp, Upshur, Wood, Raines, Van Zandt, Smith, Gregg, Harrison, Henderson, Cherokee, Rusk, Panola, Shelby, Nacogdoches, Anderson, Freestone, Leon, Robertson, Brazos, Madison, Grimes, Waller, Houston, Walker, Trinity, Angelina, San Augustine, Sabine, Newton, Jasper, Tyler, Polk, San Jacinto, Montgomery, Harris, Liberty, Hardin, Orange, Jefferson, Chambers, Galveston.

State District No. 5, comprising 51 counties:—Wilbarger, Wichita, Clay, Montague, Cooke, Grayson, Fannin, Hunt, Collin, Denton, Wise, Jack, Archer, Taylor, Knox, Haskell, Stephens, Throckmorton, Young, Jones, Shackelford, Palo Pinto, Rockwall, Kaufman, Ellis, Parker, Tarrant, Dallas, Johnson, Hood, Somervell, Erath, Eastland, Callahan, Coleman, Brown, Commanche, Mills, Hamilton, Bosque, Hill, Navarro, Limestone, McLennan, Falls, Milam, Bell,

Williamson, Burnet, Lampasas, Coryell.

B. The Commissioners Court of each county within thirty (30) days after this Act becomes effective, shall call a meeting or convention in each precinct, of the resident land owning taxpayers who are qualified voters in such precinct, at a place and time for each precinct to be designated by the Commissioners Court, for the purpose of electing a member of the County Soil Conservation Advisory Committee. A majority vote of those present at such meeting, who are resident land owning taxpayers and qualified voters in the precinct, shall be necessary to elect such member of the County Soil Conservation Advisory Committee. Each member so elected shall be a resident land owner, legally qualified voter of the precinct from which he is elected, and shall be actively engaged in the business of farming or animal husbandry.

The Commissioner of each precinct shall act as Chairman of the meeting in such precinct. If said Commissioner is absent, those present who are resident land owning taxpayers and qualified voters of such precinct shall elect an acting Chairman from among their number who shall preside at said meeting.

The name of the member so elected shall be certified to the County Judge who shall, within five (5) days, officially notify the person so elected that he has been elected as a member of such Advisory Committee.

The County Soil Conservation Advisory Committee shall select one of its members as chairman, who shall have authority to cast an additional vote in case of a tie and shall be charged with the usual and customary duties of a presiding officer. A majority of the members shall constitute a quorum and the concurrence of a majority of such quorum in any matter within their jurisdiction shall be required for final determination.

Vacancies upon the County Soil Conservation Advisory Committee shall be filled for an unexpired term, or for a full term, by the same manner in which the retiring members were respectively selected.

Members of a County Soil Conservation Advisory Committee shall receive no compensation for their services except the delegate to the District Convention who shall receive the amount incurred as necessary ex-

penses and Four (\$4.00) Dollars per day not to exceed two (2) days to be paid by the State Soil Conservation Board created herein.

The first County Soil Conservation Advisory Committee elected in each county shall be elected to serve as follows:

1. Precincts One (1) and Three (3) in each county shall each elect a Committee member to serve for a period ending the first Tuesday in January, 1939, or until their successors are elected and have qualified. Biennially thereafter on the first Tuesday in January new members shall be elected as hereinabove provided and shall serve for a term of two (2) years.

2. Precincts Two (2) and Four (4) in each county shall each elect a Committee member to serve for a period ending the first Tuesday in January, 1940, or until their successors are elected and have qualified. Biennially thereafter on the first Tuesday in January new members shall be elected as hereinabove provided and shall serve for a term of two (2) years.

C. The County Soil Conservation Advisory Committee in each county shall elect one of its number as a delegate to attend the State District Conservation Convention which shall be held within each State District, at a time and place designated by the Governor of the State of Texas, said date to be not later than forty-five (45) days after the effective date of this Act, and each State District Convention shall elect, by a majority vote a member of the State Soil Conservation Board. A majority of all county delegates elected to the State District Convention shall constitute a quorum.

State Districts One (1), Three (3) and Five (5) shall each elect a Board member to serve on the State Soil Conservation Board for a period ending the first Tuesday in February, 1939, or until their successors are elected and have qualified. Biennially thereafter on the first Tuesday in February New Board Members shall be elected as hereinabove provided and shall serve for a term of two (2) years.

State Districts Two (2) and Four (4) shall each elect a Board Member to serve on the State Soil Conservation Board for a period ending the first Tuesday in February, 1940, or until their successors are elected and have qualified. Biennially thereafter

on the first Tuesday in February, new members shall be elected to serve for a term of two (2) years or until their successors are elected and have qualified.

D. The State Soil Conservation Board shall meet to organize at a time and place to be designated by the Governor of Texas, within ten (10) days following the election of such members, and shall thereafter meet from time to time as necessary. Each member of the State Soil Conservation Board shall take the State Constitutional Oath of Office, and said State Soil Conservation Board shall designate one of its elective members to serve as chairman and may from time to time change such designation.

Vacancies upon such Board shall be filled for an unexpired term or for a full term, by the same manner in which the retiring members were respectively elected. Elective members of the Board may receive compensation for their services on the Board, not to exceed the sum of \$10.00 per diem for each day of actual service rendered, but each member shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties as members of the Board.

E. A majority of the elective members of the State Soil Conservation Board shall constitute a quorum and the concurrence of a majority of the elective members in any matter within their duties shall be required for its determination. The State Board shall keep a complete and accurate record of all its official actions, hold such public hearings at such times and places within the State as may be determined by the Board, and shall promulgate such rules and regulations as may be necessary for the performance of the functions of said Board under the provisions of this Act. The Board shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property.

F. The State Soil Conservation Board may employ an administrative officer and such technical experts and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The Board may call upon the Attorney General of the State for such legal services as it may require, or may employ its own counsel and legal staff.

It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. It shall have authority to locate its office at a point to be selected by the Board. It shall have authority to acquire and pay for any space rental, personal property and incidental service or transportation or means of communication reasonably required, to forward the objects of this Act.

Upon request of the Board, for the purpose of carrying out any of its functions, the supervising officer of any State agency, or of any State institution of learning, shall, in so far as may be possible, under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detain to the board members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the board may request.

G. In addition to the duties and powers hereinafter conferred upon the State Soil Conservation Board, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of soil conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs.

(2) To keep the supervisors of each of the several districts organized under the provisions of this Act informed of the activities and experience of all other districts organized hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them.

(3) To coordinate the programs of the several soil conservation districts organized hereunder so far as this may be done by advice and consultation.

(4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this State, in the work of such districts.

(5) To disseminate information throughout the State concerning the activities and programs of the soil conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable.

H. The State Treasurer's Official Bond shall be liable for all moneys and securities of the State Board, and he shall have the care and custody of all funds and securities of the State Board in the manner as is now provided by law. Any funds coming into the hands of the Treasurer of this State, as hereinafter provided, shall be by him credited to a special fund to be known as the State Soil Conservation Fund and the moneys hereafter deposited or credited in such Fund are hereby appropriated to the use and benefit of the State Soil Conservation Board, as may be by said Board used in compliance with this Act. The Board shall provide and furnish an annual audit by a Certified Public Accountant and a report to the Governor of the State.

Section 5. Creation of Soil Conservation Districts.

A. Any fifty (50) resident owners of land lying within the limits of the territory proposed to be organized into a district may file a petition with the State Soil Conservation Board asking that a soil conservation district be organized to function in the territory described in the petition. Such petition shall set forth:

(1) The proposed name of said district;

(2) That there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory described in the petition;

(3) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate;

(4) A request that the State Soil Conservation Board duly define the boundaries for such district; that an election be held within the territory so defined on the question of the creation of a soil conservation district in such territory; and that the Board determine that such a district be created.

Where more than one petition is filed covering parts of the same territory, the State Soil Conservation Board may consolidate all or any such petitions.

B. Within thirty (30) days after such a petition has been filed with the State soil conservation board, it shall cause due notice to be given of a

proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this Act, and upon all questions relevant to such inquiries. All resident owners of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the board shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such district. County boundaries may be used where desirable and feasible. In making such determination and in defining such boundaries, the board shall give due weight and consideration to the topography of the area considered and of the State, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this Act, and such other physical, geographical, and economic factors as are relevant, having due regard to the legislative

determinations set forth in Section 2 of this Act. If the board shall determine after such hearing, after due consideration of the said relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six (6) months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

C. After the board has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil conservation districts in this Act is administratively practicable and feasible. To assist the board in the determination of such administrative practicability and feasibility, it shall be the duty of the board, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold an election within the proposed district upon the proposition of the creation of the district, and to cause due notice of such election to be given, which notice shall set forth the boundaries of the proposed District. The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands lying in the county (ies) of _____, _____ and _____" and "Against creation of a soil conservation district of the lands lying in the county (ies) of _____ and _____" shall appear. All resident owners of lands lying within the boundaries of the territory, as determined by the State soil conservation board, shall be eligible to vote in such election. Only such land owners shall be eligible to vote.

D. The Board shall pay all expenses for the issuance of such notices and the conduct of such hearings and elections, and shall supervise the conduct of such hearings and elections. It shall issue appropriate regulations

governing the conduct of such hearings and elections, and providing for the registration prior to the date of the election of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such election. No informalities in the conduct of such election, or in any matters relating thereto shall invalidate said election or the result thereof if notice thereof shall have been given substantially as herein provided and said election shall have been fairly conducted.

E. The Board shall publish the result of such election and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the board shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the board shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner herein-after provided. In making such determination the board shall give due regard and weight to the attitudes of the owners of lands lying within the defined boundaries, the number of resident land owners eligible to vote in such election who shall have voted, the proportion of the votes cast in such election in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the land owners of the proposed district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative determinations set forth in Section 2 of this Act, provided, however, that the board shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least two-thirds of the votes cast in the election upon the proposition of creation of the district shall have been cast in favor of the creation of such district.

F. If the board shall determine that the operation of the proposed dis-

trict within the defined boundaries is administratively practicable and feasible, it shall appoint two (2) supervisors to act, with the three (3) supervisors elected as provided hereinafter, as the governing body of the district. Such district shall be a governmental subdivision of this State and a public body corporate and politic, upon the taking of the following proceedings:

The two appointed supervisors shall present to the Secretary of State an application signed by them, which shall set forth (and such application need contain no detail other than the mere recitals): (1) that a petition for the creation of the district was filed with the State Soil Conservation Board pursuant to the provisions of this Act, and that the proceedings specified in this Act were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body corporate and politic, under this Act; and that the board has appointed them as supervisors; (2) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3) the term of office of each of the supervisors; (4) the name which is proposed for the district; and (5) the location of the principal office of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by laws of this State to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the State Soil Conservation Board, which shall certify (and such statement need contain no detail other than mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the board did duly determine that there is need, in the interest of the public health, safety, and welfare, for a soil Conservation District to function in the proposed territory and did define the boundaries thereof; that notice was given and an election held on the question of the creation of such dis-

trict, and that the result of such election showed a two-third majority of the votes cast in such election to be in favor of the creation of the district; that thereafter the board did duly determine that the operation of the proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the board.

The Secretary of State shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other soil conservation district of this State or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. If the Secretary of State shall find that the name proposed for the district is identical with that of any other soil conservation district of this State, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the State Soil Conservation Board, which shall thereupon submit to the Secretary of State a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name, free of such defects, the Secretary of State shall record the application and statement, with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this State and a public body corporate and politic. The Secretary of State shall make and issue to the said supervisors a certificate, under the seal of the State, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by the State soil conservation board as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this Act.

G. After six (6) months shall have expired from the date of entry of a determination by the State Soil Conservation Board that operation of a proposed district is not administratively practicable and feasible, and

denial of a petition pursuant to such determination, subsequent petition may be filed as aforesaid, and action taken thereon in accordance with the provisions of this Act.

H. Petitions for including additional territory within an existing district may be filed with the State Soil Conservation Board, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The board shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this Act for petitions to organize a district. Where the total number of resident land owners in the area proposed for inclusion shall be less than 50, the petition may be filed when signed by a two-third majority of resident land owners of such area, and in such case no election need be held. In election upon petitions for such inclusion, all resident owners of land lying within the proposed additional area shall be eligible to vote.

I. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have been established in accordance with the provisions of this Act upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate duly certified by the Secretary of State shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of the filing and contents thereof.

Section 6. Method of Selection, Qualifications, and Tenure of Soil Conservation District Supervisors.

Within thirty (30) days after the date of issuance by the Secretary of State of a certificate of organization of a soil conservation district, nominating petitions may be filed with the State Soil Conservation Board to nominate candidates for supervisors of such district. The Board shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the Board unless it shall be subscribed by ten (10) or more qualified voters who are resident owners of lands lying within the boundaries of such district. Such resident land owners may sign more than one such nominating petition to nomi-

nate more than one candidate for supervisor. The Board shall give due notice of an election to be held for the election of supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall appear, arranged in the alphabetical order of the surnames, upon ballots, with a direction to the voter to indicate the voter's preference for three nominees by running a line through the names of nominees he shall desire to vote against. All qualified voters who are owners of land lying within the district shall be eligible to vote in such election. Only such land owners shall be eligible to vote. The three candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district. The Board shall pay all the expenses of such election, shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such election and the determination of the eligibility of voters therein, and shall publish the results thereof.

The governing body of the district shall consist of five (5) supervisors. In addition to the three supervisors elected as provided hereinabove, two supervisors shall be appointed by the State Soil Conservation Board. All five such supervisors shall be qualified voters and resident land owners of the district from which they are elected and shall be actively engaged in the business of farming or animal husbandry.

The supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of each supervisor shall be three (3) years, except that the supervisors who are first appointed shall be designated to serve for terms of 1 and 2 years, respectively, from the date of their appointment. A supervisor shall hold office until his successor has been elected or appointed and has qualified. Vacancies shall be filled for the unexpired term. The selection of successors to fill an unexpired term, or for a full term, shall be made in the same manner in which the retiring supervisors shall, respectively, have been elected. A majority of the supervisors shall constitute a quorum and the concurrence of a majority of the supervisors in any matter within their duties shall be re-

quired for its determination. A supervisor may receive compensation for services not to exceed Four (\$4.00) Dollars for each day he shall be in actual attendance upon the duties of the office within the district, not to exceed twenty (20) days in any one calendar year, and not to exceed Four (\$4.00) Dollars and necessary expenses incurred for services other than within the district, except by approval of the State Board.

The supervisors may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties, and compensation. The supervisors may call upon the Attorney General of the State for such legal services as they may require, or may employ their own counsel and legal staff. The supervisors may delegate to their chairman, to one or more supervisors, or to one or more agents or employees, such powers and duties as they may deem proper. The supervisors shall furnish to the State Soil Conservation Board, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this Act.

The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings of all resolutions, regulations, and orders issued or adopted; and shall provide for a biennial audit by a certified public accountant of the accounts of receipts and disbursements. The State Board may demand and pay the expense of an audit at any time. Any supervisor may be removed by the State Soil Conservation Board upon notice and hearing, for neglect of duty or malfeasance in office or change of residence out of district but for no other reason.

The supervisors may invite the Legislative body of any municipality or county located within or near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of pro-

gram and policy which may affect the property, water supply, or other interests of such municipality or county.

Section 7. Powers of Districts and Supervisors.

A soil conservation district organized under the provisions of this Act shall constitute a governmental subdivision of this State, and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other Sections of this Act:

(1) To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in subsection C of Section 2 of this Act, and lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner of such lands or the necessary rights or interests in such lands;

(2) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any owner of lands within the district, in the carrying on of erosion control and prevention operations within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this Act;

(3) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this Act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this Act;

(4) To make available, on such terms as it shall prescribe, to land owners within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seed-

lings, and such other material or equipment, as will assist such land owners to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion;

(5) To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this Act;

(6) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of owners of lands within the district;

(7) To take over, by purchase, lease, or otherwise, and to administer, any soil-conservation, erosion-control or erosion-prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this State or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this State or any of its agencies, any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to act as agent for the United States, or any of its agencies, or for this State or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this State or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

(8) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and

other instruments, necessary or convenient to the exercise of its powers, to make, and from time to time amend and repeal, rules and regulations not inconsistent with this Act, to carry into effect its purposes and powers;

(9) To enter into contracts and agreements with the County Commissioners of any County for the use of road machinery or other County equipment that may be available for use in soil conservation work;

(10) As a condition to the extending of any benefits under this Act to, or the performance of work upon, any lands not owned or controlled by this State or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require land owners to enter into and perform such agreements or covenants as to the permanent use of such land as will tend to prevent or control erosion thereon;

(11) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the Legislature shall specifically so state.

Section 8. Adoption of Land-Use Regulations.

The supervisors of any district shall have authority to formulate regulations governing the use of lands within the district in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct an election for submission of such regulations to the owners of lands lying within the boundaries of the district for their indication of approval or disapproval of such proposed regulations, and until after the supervisors have considered the result of such election. The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for inspection during the period between publication of such notice and the date of the election. The notices of the election shall recite the con-

tents of such proposed ordinance, or shall state where copies of such proposed ordinance may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed ordinance no.

_____, prescribing land-use regulations for conservation of soil and prevention of erosion" and Against approval of proposed ordinance no. _____,

prescribing land-use regulations for conservation of soil and prevention of erosion" shall appear. The supervisors shall supervise such election, shall prescribe appropriate regulations governing the conduct thereof, and shall publish the result thereof. All resident owners of lands within the district shall be eligible to vote in such election. Only such land owners shall be eligible to vote. No informalities in the conduct of such election or in any matters relating thereto shall invalidate said election or the result thereof if notice thereof shall have been given substantially as herein provided and said election shall have been fairly conducted.

The supervisors shall not have authority to enact such proposed ordinance into law unless at least two-thirds of the votes cast in such election shall have been cast for approval of the said proposed ordinance. The approval of the proposed ordinance by two-thirds of the votes cast in such election shall not be deemed to require the supervisors to enact such proposed ordinances into law. Land-use regulations prescribed in ordinances adopted pursuant to the provisions of this Section by the supervisors of any district shall have the force and effect of law in the said district and shall be binding and obligatory upon all owners of lands within such district.

Any owner of land within such district may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this Section shall be amended, supplemented, or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provisions of this Section shall not be amended, supplemented, or repealed except in accordance with the procedure prescribed in this Section for adoption of land-use regulations. Elections on adoption, amendment, supplementation, or repeal of land-

use regulations shall not be held more often than once in six (6) months.

The regulations to be adopted by the supervisors under the provisions of this Section may include:

1. Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures;

2. Provisions requiring observance of particular methods of cultivation including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding, and planting of lands to water-conserving and erosion-preventing plants, trees, and grasses, forestation, and reforestation;

3. Specifications of cropping programs and tillage practices to be observed;

4. Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;

5. Provisions for such other means, measures, operations, and programs as may assist conservation of soil resources and prevent or control soil erosion in the district, having due regard to the legislative findings set forth in Section 2 of this Act.

The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this Section shall be printed and made available to all owners and occupiers of lands lying within the district.

Section 9. Performance of Work Under the Regulations by the Supervisors.

The supervisors shall have authority to go upon any lands within the district to determine whether land-use regulations adopted under the provisions of Section 8 of this Act are being observed.

Where the supervisors of any dis-

trict shall find that any of the provisions of land-use regulations prescribed in an ordinance adopted in accordance with the provisions of Section 8 hereof are not being observed on particular lands, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may present to any Court of competent jurisdiction a petition, duly verified, setting forth the adoption of the ordinance prescribing land-use regulations, the failure of the defendant land owner to observe such regulations, and to perform particular work, operations, or avoidances as required thereby, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the Court to require the defendant to perform the work, operations, or avoidances within a reasonable time and to order that if the defendant shall fail so to perform the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and recover the costs and expenses thereof, with interest, from the owner of such land. Upon the presentation of such petition, the Court shall cause process to be issued against the defendant, and shall hear the case. If it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and report the same to the Court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may dismiss the petition; or it may require the defendant to perform the work, operations, or avoidances, and may provide that upon the failure of the defendant to initiate such performance within the time specified in the order of the Court, and to prosecute the same to completion with reasonable diligence, the supervisors may enter upon the lands involved and perform the work or operations or otherwise bring the condition of such lands into conformity with the requirements of the regulations and

recover the costs and expenses thereof, from the owner of such lands.

The Court shall retain jurisdiction of the case until after the work has been completed. Upon completion of such work pursuant to such order of the Court the supervisors may file a petition with the Court, a copy of which shall be served upon the defendant in the case, stating the costs and expenses sustained by them in the performance of the work and praying judgment therefor with interest. The Court shall have jurisdiction to enter judgment for the amount of such costs and expenses, together with the costs of suit, including a reasonable attorney's fee to be fixed by the Court. Such judgments shall be collected in the same manner as that provided for the collection of assessments in Wind Erosion Conservation Districts created by authority of House Bill No. 978, Act of the Regular Session of the Forty-fourth Legislature of Texas.

Section 10. Cooperation Between Districts.

The supervisors of any two or more districts organized under the provisions of this Act may cooperate with one another in the exercise of any or all powers conferred in this Act.

Section 11. State Agencies to Cooperate.

Agencies of this State which shall have jurisdiction over, or be charged with the administration of, any State-owned lands, and of any county, or other governmental subdivision of the State, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this Act. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands. The provisions of land-use regulations adopted pursuant to Section 8 of this Act shall have the force and effect of law over all such publicly owned lands, and shall be in all respects observed by the agencies administering such lands.

Section 12. Discontinuance of Districts.

At any time after five (5) years after the organization of a district

under the provisions of this Act, any fifty (50) owners of land lying within the boundaries of such district may file a petition with the State Soil Conservation Board praying that the operations of the district be terminated and the existence of the district discontinued. The board may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such a petition has been received by the board it shall give due notice of the holding of an election, and shall supervise such election, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the.....(name of the soil conservation district to be here inserted)" and "Against terminating the existence of the.....(name of the soil conservation district to be here inserted)" shall appear.

All owners of lands lying within the boundaries of the district shall be eligible to vote in such election. Only such land owners shall be eligible to vote. No informalities in the conduct of such election or in any matters relating thereto shall invalidate said election or the result thereof if notice thereof shall have been given substantially as herein provided and said election shall have been fairly conducted.

The board shall publish the result of such election and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the board shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the board shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination the board shall give due regard and weight to the attitudes of the owners of lands lying within the district, the number of land owners eligible to vote in such election who shall have voted, the proportion of the votes cast in such election in favor of the discontinuance of the district to the total

number of votes cast, the approximate wealth and income of the land owners of the district, the probable expense of carrying on erosion control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in Section 2 of this Act; provided, however, that the board shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the election shall have been cast in favor of the continuance of such district.

Upon receipt from the State Soil Conservation Board of a certification that the board has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this Section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale into the State treasury. The supervisors shall thereupon file an application, duly verified, with the Secretary of State for the discontinuance of such district, and shall transmit with such application the certificate of the State Soil Conservation Board setting forth the determination of the board that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this Section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The Secretary of State shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

Upon issuance of a certificate of dissolution under the provisions of this Section, all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The State Soil Conserva-

tion Board shall be substituted for the district or supervisors as party to such contracts. The board shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of Section 9 of this Act, nor the pendency of any action instituted under the provisions of such Section, and the board shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

The State Soil Conservation Board shall not entertain petitions for the discontinuance of any district nor conduct elections upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this Act, more often than once in five (5) years.

Section 13. Appropriations.

A. In order to provide a fund for the necessary expenses and operations of the State Soil Conservation Board, there is hereby appropriated the sum of Twenty-five Thousand (\$25,000.00) Dollars available at once for the use of the Board throughout the remainder of the current biennium, ending September 1, 1937; and there is further hereby appropriated for the use of the State Soil Conservation Board for the biennium beginning September 1, 1937 and ending September 1, 1939, the sum of Fifty Thousand (\$50,000.00) Dollars, both of these amounts to be appropriated out of funds not heretofore appropriated from the General Fund of the State Treasury to be disbursed by order of the State Soil Conservation Board and the Treasurer of this State, to cover the interim before diversions, referred to in Subsection B of this Section, become available.

B. In order that the State and the several conservation districts herein created, may in good faith immediately hold themselves out to the United States as being ready and able effectually to cooperate with that government in accomplishing the objects of this Act, there is hereby diverted and granted by the State to the State Soil Conservation Board,

the funds derived from the legal assessment, levy and collection of the State ad valorem taxes for general revenue purposes only, (this excludes the levy for school purposes and Confederate pensions) upon the property and from the persons in each respective county of this State not heretofore diverted or granted by the State to any political subdivision of this State accruing from the application of ten (10) cents of the constitutional ad valorem tax rate. All moneys so diverted shall be held by the State Treasurer for safe keeping and by him shall be placed in a special fund to be available for the use of the State Soil Conservation Board in carrying out the duties and functions imposed by this Act. At the end of ten (10) years, any unused portion of said funds shall be set over and paid into the General Revenue Fund. The period of such diversion shall be ten (10) years. The taxes hereby diverted shall be legally assessed, levied, and collected as now provided by law, except that the assessor and collector of the taxes in each respective county shall forward his reports to the Comptroller of Public Accounts as now provided by law and the Comptroller shall pay over all such moneys to the State Treasurer as now provided by law and the State Treasurer shall deposit the funds above specified in the special fund above referred to.

Such tax so diverted shall be appropriated by the State Soil Conservation Board for the purpose of carrying on its administrative functions and to the use of the Soil Conservation Districts organized under the provisions of this Act. The State Soil Conservation Board in making such appropriations shall consider, among other considerations, the size of the district, the condition of erosion and the amount of work that is necessary to be done within the district in order to carry out the provisions of this Act as expressed in Section 2 hereof. The Board shall formulate such rules and regulations as it deems proper to insure the equitable distribution of the diverted funds among the soil conservation districts of the State.

Section 14. Separability Clause.

If any provision of this Act, or the application of any provision to any person or circumstance, is held invalid, the remainder of the Act, and

the application of such provision to other persons or circumstances, shall not be affected thereby.

Section 15. Inconsistency with Other Acts.

In so far as any of the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling, except where otherwise indicated in this Act.

Section 16. Repealing and Affirming Certain Acts.

A. Senate Bill No. 227 passed by the Regular Session of the Forty-fourth Legislature, page 504, Regular Session, is hereby repealed.

B. This Act shall not in any wise repeal House Bill No. 13, Acts of the Forty-second Legislature, Regular Session, but the same is hereby expressly preserved in accordance with terms thereof.

C. This Act shall not in any wise affect, impair or impinge upon the provisions of House Bill No. 978, Act of the Regular Session of the Forty-fourth Legislature under which Wind Erosion Soil Conservation Districts have been created or may hereafter be created, but the same is expressly preserved in accordance with the terms thereof. The State Soil Conservation Board shall have authority, working with the governing bodies of the Wind Erosion Conservation Districts, to put into operation in said Wind Erosion Conservation Districts such provisions of this Act as are not in conflict with the provisions of House Bill No. 978, Acts of the Regular Session of the Forty-fourth Legislature.

Section 17. Effective Date.

The fact that the Federal Congress now is in session and in its deliberation will be considering appropriations of money to be used in Texas and other States for the conservation of soil and water, for the control of flood waters and the abatement of injuries caused thereby, and other measures intended to conserve the natural resources of the several States, coupled with the serious condition of erosion and the lack of effective means of conserving water in the State of Texas, creates an imperative public necessity that the Constitutional Rule requiring that bills should be read on three several days, in each House, be, and it hereby is, suspended; and this Act shall take

effect from and after its passage, and it is so enacted.

FUCHS,
RAGSDALE,
TARWATER.

Question — Shall the substitute amendment be adopted?

ADJOURNMENT

Mr. Bond moved that the House adjourn until 10:00 o'clock a. m., next Monday.

The motion prevailed, and the House, accordingly, at 12:45 o'clock p. m., adjourned until 10:00 o'clock a. m., next Monday.

APPENDIX

STANDING COMMITTEE REPORTS

The following committees have filed favorable reports on bills and resolutions, as follows:

Appropriations: House Bill No. 1014.

Constitutional Amendments: House Joint Resolutions Nos. 4, 35 and 52.

Conservation and Reclamation; Senate Bill No. 386.

Education: House Bill No. 1101.

Highways and Motor Traffic: House Bills Nos. 956 and 1100.

Judiciary: House Bill No. 906; Senate Bill No. 207.

Privileges, Suffrage and Elections: Senate Bill No. 153.

State Affairs: House Bill No. 1082; House Concurrent Resolution No. 82; Senate Bill No. 322.

The Committee on Appropriations filed adverse reports on House Bills Nos. 575 and 1094.

The following committees filed adverse reports, with minority favorable reports, on bills, as follows:

Appropriations: House Bill No. 405.

State Affairs: Senate Bill No. 260.

REPORT OF THE COMMITTEE ON ENROLLED BILLS

Committee Room,

Austin, Texas, April 9, 1937.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 81, "An Act to aid the Pease River Floor Control District, a State agency, in carrying out the purposes for which it was created by Chapter 420, General and Special Laws, First Called Session, Forty-fourth Legislature (Senate Bill No. 62 of said Session), including the acquiring of the lands, leases, easements, and acquittances, rights of way, structures, buildings, and equipment, and including the operation of structures, dams, reservoirs, and canals, suitable, in so far as practicable, for the control of the flood waters of the Pease River watershed, declared to be a public calamity; granting and donating, with certain limitations, to said District for a period of two (2) years all of the State ad valorem taxes in the following Counties, which otherwise would go into the General Revenue Fund of the State of Texas, namely: Cottle, Foard, Hardeman, and Wilbarger; said grant being contingent upon the receiving by said District of a grant or allotment from the United States of America on or before January 1, 1939, of a sum sufficient to effect the purpose of this Act; providing that if said grant or allotment is not obtained in the specified time that H. B. No. 158, if same becomes a law, shall govern the disposition and disbursement of said money; and declaring certain things incidental to said purposes; providing that the District shall not mortgage or otherwise encumber any of its property and that the District may sell a part of its property under certain conditions; and providing, except by a sale under such condition, no property or interest of the District shall come into the ownership or control of any person, firm, or corporation other than a public authority created under the laws of the State of Texas; and providing that the property of the District shall at all times be exempt from forced sale; providing a penalty for the misapplication of the funds thus donated; providing for the investment of funds that the Board may determine it best to invest; providing for a system of accounting; providing for bond of the Treasurer of the District to cover the funds herein donated; providing that the District shall not be required to give bond on appeal or for costs in condemnation proceedings; providing that the District shall allow free public ingress

and egress to the property and impounded waters and that the right to engage in hunting, camping, fishing, boating, and swimming thereon shall always be free to the public; providing that public roads, streets, and State highways now traversing the area covered by impounded waters shall remain open to the waters as public passage; requiring the District when acquiring lands to acquire strips of land on both sides of the reservoirs to be assigned to the State of Texas and controlled by the Game, Fish and Oyster Commission of the State of Texas to be kept open to the public at all times without charge; defining the word District, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

HERZIK, Chairman.

FIFTY-FOURTH DAY

(Monday, April 19, 1937)

The House met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Calvert.

The roll of the House was called, and the following Members were present:

Mr. Speaker	Davison of Fisher
Adkins	Davisson
Alexander	of Eastland
Alsup	Dean
Amos	Deglandon
Baker	Derden
Bates	Dickison
Beckworth	Dollins
Bell	England
Blankenship	Farmer
Boethel	Felty
Bond	Fielden
Boyer	Fox
Bradbury	Fuchs
Bradford	Gibson
Bridgers	Graves
Broadfoot	Hamilton
Brown	Hankamer
Burton	Hanna
Cagle	Hardin
Callan	Harper
Carsow	Harrell
Cathey	Harris of Archer
Cauthorn	Harris of Dallas
Celaya	Harris of Dickens
Cleveland	Hartzog
Colquitt	Heflin
Davis of Haskell	Herzik
Davis of Jasper	Holland

Hoskins	Palmer
Howard	Patterson of Mills
Huddleston	Patterson
Hull	of Travis
Hyder	Petsch
Jackson	Powell
James	Prescott
Johnson of Ellis	Quinn
Johnson	Ragsdale
of Tarrant	Reader
Jones of Atascosa	Reed of Bowie
Jones of Falls	Reed of Dallas
Jones of Wise	Rhodes
Keefe	Riddle
Keith	Roark
Kelt	Ross
Kenyon	Russell
Kern	Rutta
King	Schuenemann
Knetsch	Settle
Langdon	Sewell
Lankford	Sharpe
Lanning	Shell
Leath	Simpson
Leonard	Skaggs
Leyendecker	Smith of Hopkins
Little	Smith
Loggins	of Matagorda
London	Stevenson
Mann	Stinson
Mauritz	Stocks
Mays	Talbert
McConnell	Tarwater
McCracken	Tennant
McDonald	Tennyson
McFarland	Thornberry
McKee	Thornton
McKinney	Vale
Metcalfe	Waggoner
Moffett	Walker
Monkhouse	Weldon
Morris	Westbrook
Morse	Winfree
Newton	Wood
Nicholson	Worley
Oliver	

Absent

Harbin	Smith of Tarrant
Pope	

Absent—Excused

Jones of Angelina Lucas

A quorum was announced present.

Prayer was offered by Rev. George W. Coltrin, Chaplain.

LEAVES OF ABSENCE GRANTED

The following Member was granted leave of absence on account of important business:

Mr. Jones of Angelina for this morning, on motion of Mr. London.